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ABSTRACT

This report describes the nation's progress in advancing public policies to increase the inclusion, empowerment, and independence of people with disabilities of all ages consistent with the vision of the Americans with Disabilities Act of 1990. The report covers the period of November 1999 through November 2000. It reviews federal policy activities by major issue areas, noting progress where it has occurred and making further recommendations for the President and the 107th Congress. Progress is evaluated in the following areas: (1) disability research; (2) civil rights; (3) education; (4) health care; (5) long-term services and supports; (6) youth; (7) employment; (8) welfare reform; (9) housing; (10) transportation; (11) technology and telecommunications; and (12) international issues. The report concludes that while Americans with disabilities have witnessed an incremental expansion of self-sufficiency and inclusion, far too much of their time is spent defending bedrock civil and human rights protections against attempts to weaken laws such as the Americans with Disabilities Act and the Individuals with Disabilities Education Act. Part 2 of the report describes the major activities of the National Council on Disability for fiscal year 2000. An appendix provides the mission of the National Council on Disability. (CR)

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National Disability Policy: A Progress Report

November 1999–November 2000

National Council on Disability

EC 309304

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National Disability Policy: A Progress Report, November 1999–November 2000

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Letter of Transmittal

June 14, 2001

The President
The White House
Washington, DC 20500

Dear Mr. President:

On behalf of the National Council on Disability (NCD), I am pleased to submit *NCD's National Disability Policy: A Progress Report*, as required by Section 401 (b)(1) of the Rehabilitation Act of 1973, as amended. The report uses as benchmarks the recommendations for change made by disability leaders from throughout the country and captured in the 1996 NCD document *Achieving Independence*. These recommendations—elaborated upon in the ensuing annual Progress Reports— reflect a wide array of public policy areas designed to advance inclusion, empowerment, and independence of people with disabilities of all ages from diverse backgrounds consistent with the vision of the Americans with Disabilities Act of 1990 (ADA). The attached report covers the period November 1999 through November 2000, the end of the 2nd Session of the 106th Congress. It reviews federal policy activities by major issue areas, noting progress where it has occurred and making further recommendations where necessary. The recommendations apply to the executive and legislative branches of the Federal Government.

NCD believes that Americans with disabilities have witnessed incremental expansion of self-sufficiency and inclusion this past year. However, far too much of our time is spent in defending the bedrock civil and human rights protections of the past 30 years against attempts to weaken laws such as ADA and the Individuals with Disabilities Education Act. The change in responsibility for the development of policy and program implementation from the Federal Government to state government offers opportunities for innovation. At the same time it adds tension and complexities to policy for people with disabilities who rely on such programs, rather than ensuring their promise.

In your New Freedom Initiative, you laid out a blueprint to increase investment in and access to assistive technologies and a high-quality education, and to help integrate Americans with disabilities into the workforce and into community life. This initiative comes at a time when many disability advocates are expressing concern about the future of disability policy. NCD will work with the your administration and Congress to ensure that every individual with a disability has access to the American dream.
With strong, representative, and experienced leadership and open, ongoing input from the disability community, the challenge to make the most of the opportunities facing us at the start of your new Administration can be met. NCD has completed civil rights policy evaluations over the past several years directly related to the disability policy areas addressed in the New Freedom

Initiative. We have also submitted to you NCD's transition recommendations in a document entitled *Investing in Independence: Transition Recommendations for President George W. Bush* related to your New Freedom Initiative. NCD invites you and your Administration to draw on the research and studies conducted by our agency for information on how and where executive agencies can act to the maximum benefit of their consumers.

NCD stands ready to work with you and stakeholders inside and outside the government to see that the public policy agenda set out in the attached report, in *Achieving Independence*, in a series of civil rights monitoring studies published as NCD reports, and in the New Freedom Initiative is implemented.

Sincerely,

Marca Bristo
Chairperson

(The same letter of transmittal was sent to the President Pro Tempore of the U.S. Senate and the Speaker of the U.S. House of Representatives.)

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Dedication

Dedicated to Rae Unzicker, whose service as a member of the National Council on Disability from 1995 to her death on March 22, 2001, helped to significantly advance the issues of people with disabilities, particularly those with psychiatric disabilities. We have been blessed and enlightened by Rae's fierce and unwavering passion in supporting the rights of people with psychiatric disabilities to exercise free choice in all aspects of their lives.

Foreword

A number of significant disability policy events occurred outside the time period covered by this report but before the report went to press. We would be remiss in not briefly mentioning those events now. On January 20, 2001, the new administration issued a memorandum to all federal agencies indicating the possibility of delays in implementation of last-minute executive orders or eleventh hour regulation making attempted by the Clinton administration. Some of these orders and regulations affect people with disabilities.

On February 1, 2001, President George W. Bush released his New Freedom Initiative, which lays out a blueprint to increase investment in and access to assistive technologies and a high-quality education and to help integrate Americans with disabilities into the workforce and into community life. On February 21, in a 5 to 4 decision, the U.S. Supreme Court ruled in *University of Alabama v. Garrett* (No. 99-1240) that state workers cannot file employment discrimination suits for money damages against state governments under Title I of the Americans with Disabilities Act (ADA) of 1990. The majority opinion, written by Chief Justice William H. Rehnquist, said that the evidence of state discrimination against people with disabilities assembled by Congress when it passed ADA was insufficient to establish its authority to allow workers to sue their state employers for damages. We will present much more in-depth information about those events in NCD's next Progress Report.

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Executive Summary

In 2000, America celebrated the 10th anniversary of the Americans with Disabilities Act (ADA) and the 25th anniversary of the Individuals with Disabilities Education Act (IDEA). From the vantage point of these milestones, America has reason to be proud. Americans used these two anniversaries to launch hundreds of outstanding ADA birthday events. A two-day celebration in the Washington, DC, area included events on Capitol Hill, the FDR Memorial, Gallaudet University, and the Endependence Center of Northern Virginia. The Washington events were part of a national "Spirit of ADA" Torch Relay, covering 24 U.S. cities, that commemorated the two important anniversaries. The torch, which began its journey June 11 in Houston, entered the nation's capital on July 25 and departed for destinations along the northeastern seaboard on July 27

Yet looking at the gap between the experiences of Americans with disabilities and the standards established by civil rights laws makes it clear that much more remains to be accomplished. As a result of its policy work in fiscal year 2000—including a series of civil rights evaluations, leadership summits, and grassroots community briefings—the National Council on Disability (NCD) has confirmed that despite great strides toward equality, people with disabilities still confront major barriers of discrimination and suffer the consequences of weak federal enforcement. These result in outcomes such as these:

- National rates for high school graduation with a diploma for students who receive special education and related services have stagnated at 27 percent for the past three years, while rates are 75 percent for students who do not rely on special education.
- Unemployment rates for working-age adults with disabilities have hovered at the 70 percent level for at least the past 12 years, while rates are in the low single digits for working-age adults without disabilities.
- Home ownership rates for people with disabilities are in the single digits, while rates for people without disabilities are about 71 percent.
- Computer use and Internet access of people with disabilities is half that of people without disabilities.

Because of the persistency of these barriers to equal opportunity, NCD believes that the President and Congress must set a standard of greater federal commitment to deliver on the promises of disability and other civil and human rights laws. The candidates in the recent presidential campaign recognized the importance of including people with disabilities in the nation's agenda by directly addressing their issues in an unprecedented way. In various campaign speeches and in his New Freedom Initiative, then-Governor George W. Bush articulated a number of specific proposals for greatly expanded resources for technology assistance, high-quality education, innovative transportation programs, and a promise of strong enforcement of ADA, among other things. The vitality of ADA, IDEA, Sections 504 and 508 of the Rehabilitation Act, the Fair Housing Act, and other critical civil rights laws depends in large measure on the long-term vision and leadership of the Federal Government.

During the past year, America celebrated the anniversary of two cornerstone and foundational disability civil rights statutes—IDEA and ADA. In addition, Congress considered a number of disability-related laws and enacted a few of them.

IDEA

In 1975, when Congress enacted the Education for All Handicapped Children Act, P.L. 94-142 (now titled Part B of IDEA), it found that the special education needs of more than eight million students with disabilities were not being met. Some students were entirely excluded from school; others were not receiving an appropriate education; still others had unidentified disabilities or were misclassified. Of those who did receive educational services, many were educated far away from their local schools (20 U.S.C. Sec. 1400(b)(1)-(6)). Still, Congress recognized that educators had the ability to instruct these students (20 U.S.C. Sec. 1400(b)(7)).

In the more than two decades since its enactment, IDEA implementation has produced important improvements in the quality and effectiveness of the public education received by millions of American children with disabilities. IDEA's basic premise is that all children with disabilities

have a federally protected civil right to have available to them a free appropriate public education that meets their schooling and related service needs in the least restrictive environment, in regular classes, and in the school they would attend if not disabled. Today almost six million children and young people with disabilities ages 3 through 21 qualify for educational interventions under Part B of IDEA. Some of these students are being educated in their neighborhood schools in regular classrooms. These children have a right to appropriate support services and devices such as assistive listening systems, braille textbooks, paraprofessional supports, curricular modifications, talking computers, and speech synthesizers, made available to them as needed to facilitate their learning side-by-side with their nondisabled peers.

In January 2000, NCD released its evaluation of nearly two and a half decades of federal enforcement of IDEA. Entitled *Back to School on Civil Rights*, this report analyzed the data contained in the Department of Education's state monitoring reports from 1975 to 1998 to determine what has been happening over time. The study measured compliance in the areas of free appropriate public education (FAPE), least restrictive environment (LRE), individualized education plans (IEPs), transition services, general supervision, procedural safeguards, and protection in evaluation of students with disabilities.

Back to School on Civil Rights reports that all states and the District of Columbia were found to be out of compliance with IDEA requirements to some degree. Federal efforts over several administrations to enforce IDEA in states where noncompliance persists were found to be inconsistent, often ineffective, and without any real teeth. While the statutory framework of IDEA envisioned states as the primary implementers of IDEA, the Federal Government has fallen short over five administrations in its efforts to ensure that the protections of the law for children with disabilities are enforced. This study confirmed what students with disabilities and their parents have repeatedly told NCD—that while they are enthusiastic supporters of IDEA, noncompliance with the law has persisted in some states over many years, placing enormous burdens on children and families.

As the nation celebrates 25 years of IDEA implementation, it is important to note that Congress crafted a statute in 1975 that, if faithfully implemented and enforced, will consistently produce quality outcomes for students with disabilities. It is also important to note that parents of children with disabilities are enthusiastic supporters of the law. They think it is a good law.

ADA

On July 26, 2000, the nation celebrated the 10th anniversary of ADA. In the years since its enactment, great strides have been made in accessing equal opportunity for Americans with disabilities and their families. That is because ADA—along with other advances in the law, health care, education, and technology—is enabling many Americans with disabilities to be more active in the community. This is good news, not only for people with disabilities but also for our entire nation.

As intended, ADA has helped to remove many of the physical and attitudinal barriers that have prevented Americans with disabilities from reaching their full potential. It has also focused the attention of public officials and private citizens on the importance of making sure that communities do not overlook or lose out on the talent of any person. So, as we mark the 10th anniversary of ADA, we can truly celebrate how far we have come in ending discrimination and tapping the skills and energy of Americans with disabilities. Nevertheless, threats to the vitality and rigor of ADA cannot be ignored.

During the year 2000, NCD released its report entitled *Promises to Keep: A Decade of Federal Enforcement of the Americans with Disabilities Act.* This report concluded that the overall impact of ADA has been diminished by a lack of sufficient leadership in developing a vision for ADA enforcement across the various federal agencies. NCD's main conclusion was that chronic underfunding and understaffing of responsible agencies, undue caution, and the absence of a coherent strategy have undermined federal enforcement of ADA in its first decade. NCD also concluded that:

- Although Congress has recently increased funding for some agencies' ADA enforcement activities, the long period of inadequate funding by Congress has reduced the effectiveness of ADA.

- The Department of Justice (DOJ) has not exercised enough oversight in tracking Title I complaints, and other agencies have not sufficiently cooperated with DOJ in preparing and referring cases that would advance the interpretation of ADA.

NCD's recommendations include robust and assertive leadership by the Federal Government spearheaded by DOJ in developing a coherent national strategy for enforcement in implementing ADA, and strengthening ADA discrimination complaint handling by the Departments of Justice and Transportation, the Equal Employment Opportunity Commission, and ADA Title II referral agencies.

On the judicial front, in October 2000, a long standing controversy over the constitutional basis of ADA as applied to states led the Supreme Court to hear the issues in *University of Alabama v. Garrett*. In *Garrett*, Alabama argued that ADA does not meet the criteria for Fourteenth Amendment protection on two grounds: (1) Congress lacked enough evidence of states' failure to extend equal protection of the law to people with disabilities and (2) the requirements of ADA were not a proportionate response to the problem the statute addresses. In late September 2000, the Supreme Court granted a writ of certiorari for *PGA Tour, Inc. v. Casey Martin*. The PGA Tour is arguing that Title III does not apply to people competing in a professional sports event and that, even if it did, ADA does not require the competition to be "fundamentally altered" by allowing different competitors to play by different substantive rules. In deciding these cases, the Supreme Court will fundamentally shape the federal judiciary's interpretation of the breadth and reach of ADA in our lifetimes.

In Congress, several amendments to ADA were proposed. The ADA Notification Act (H.R.3590) would have required people alleging a Title III violation to provide 90 days notice prior to filing

a lawsuit and would impose penalties if the rule were not followed. H.R. 3590 was referred to committee. A second bill introduced in the House (H.R. 3170) would have amended ADA (among other civil rights laws) to eliminate protections for individuals unlawfully present in the United States by excluding them from the definition of "employee" with regard to employment in the United States. It also was referred to committee. A third bill, introduced in both the House (H.R. 3836) and the Senate (S. 1922), would have facilitated ADA compliance by modifying the Internal Revenue Code of 1986 to provide a tax credit for modifications to intercity buses making them accessible as required under ADA. Both the ADA notification bill and the exclusion of undocumented workers bill would perpetuate disability discrimination by minimizing or eliminating the consequences of persistent noncompliance.

As Americans mark the 10th anniversary of ADA, we can truly celebrate how far we have come in ending discrimination and tapping the skills and energy of Americans with disabilities. On the other hand, we still have a lot of vital work ahead of us if the spirit and intent of ADA are to be realized.

Census 2000

Preliminary indications are that the undercount problem for certain population groups has improved from the 1990 census to last year's national count. It remains to be seen whether and to what degree this improvement has occurred for African Americans, Latinos, Native Americans, children under 18, and people with disabilities. The Census Bureau is expected to release its preliminary analyses of this issue during the first quarter of 2001.

Hate Crimes

The Hate Crimes Prevention Act of 1999, introduced in both the House (H.R. 77) and the Senate (S. 622), would extend the present hate crimes statutes to cover disability, gender, and sexual orientation. The Act would have allowed federal officials to prosecute hate crimes even when the victim is not engaged in "federally protected activity." These bills were referred to subcommittee in both the House and Senate.

Genetic Discrimination

Two separate measures were introduced in the House and Senate to prohibit discrimination against individuals and their family members on the basis of genetic information. The first measure was the Genetic Information Nondiscrimination in Health Insurance Act of 1999 (H.R. 306 and S. 543); the second measure was the Genetic Discrimination in Health Insurance and Employment Act of 1999 (H.R. 2457 and S. 1322). No hearings were held on either measure.

Voting Accessibility

A bill to amend the Voting Accessibility for the Elderly and Handicapped Act was introduced in the Senate in early 1999. The amendments provided for ensuring that all polling methods used for federal elections are accessible to disabled and elderly voters. The bill was referred to Senate committee.

Protections in Managed Care

Legislation to protect the rights of all people with disabilities and their families who need access to quality health care was introduced but not enacted by the 106th Congress. The primary area of controversy among proponents and opponents continues to focus on how to define and who determines "medical necessity."

Long-Term Services and Supports

A series of promising events have occurred in this area. First, in 1999, the Supreme Court affirmed the Americans with Disabilities Act's integration mandate under Title II in *Olmstead v. L. C.*, 119 S.Ct. 2176 (1999) by declaring unnecessary segregation and institutionalization of people with disabilities a form of discrimination. Second, as a result of *Olmstead,* the Department of Health and Human Services (HHS) has offered grant and demonstration programs as well as technical assistance to states to develop plans for implementing *Olmstead.* Third, legislators introduced several bills, including the Family Opportunity Act and the Older

Americans Act Amendments of 2000, to create more avenues for accessing community-based supports necessary to meet the *Olmstead* mandate.

MiCASSA

In November 1999, the Medicaid Community Attendant Services and Supports Act (MiCASSA)(S. 1935), was referred to committee, where it remains. MiCASSA, which proposes to amend Title XIX of the Social Security Act, would provide coverage for community attendant services and supports under the Medicaid program. This bill would allow the dollars to follow the person and would allow eligible individuals, or their representatives, to choose where they would receive services and supports. Any individual who is entitled to nursing home or other institutional services would have the choice of where and how these services are provided. The millions of Americans currently residing in nursing homes and other institutions would finally have a viable option.

Youth

From a national perspective, the post-school outcomes for many of our youth and young adults with disabilities remain poor, despite a number of advances realized by other people through education, disability rights policy, the support of federal mandates, and the funding of programs and initiatives intended to affect all youth. Among the changes needed to address these serious issues is a serious and protracted emphasis by government at all levels on the positive skills and attributes of youth with disabilities, and the promotion of business involvement in the educational lives of students with disabilities.

Outreach to Diverse Cultural Groups

For a large segment of the population, particularly those from diverse racial, cultural, and ethnic communities, exclusion continues to hinder their participation in all aspects of American society. Years of model programs, technical assistance, and other federal initiatives have left unchanged the status of the most disenfranchised—people with disabilities from diverse cultures. Overall concerns include (1) unequal protection and benefits under the same federal laws that have seen

at least some level of implementation for the larger disability community and (2) the persistence of dual discrimination as a barrier to people with disabilities from diverse cultures.

The President signed an Executive Order in 1999 establishing a 15-member Advisory Commission on Asian Americans and Pacific Islanders. The commission studied ways to increase public sector, private sector, and community involvement in improving the health and well-being of Asian Americans and Pacific Islanders; increase their participation in federal programs where they may be underserved; and foster research and data collection, including information on public health.

Employment

The Federal Government undertook a number of initiatives this year. Some initiatives focused on removing disincentives to work through the use of certain Supplemental Security Income (SSI) and Supplemental Security Disability Income (SSDI) benefits, through the Ticket to Work and Work Incentives Improvement Act (TWWIIA); some, such as the administration's Digital Divide Initiative, involved the use of new assistive technology or information technology programs. It is too early to tell what, if any, impact these initiatives will have on the unacceptably high rate of unemployment among people with disabilities. Along with other key agencies, the Presidential Task Force on Employment of Adults with Disabilities worked to ensure that in the FY 2001 budget, Congress approved a new Office of Disability Employment Policy for the Department of Labor. Programs and staff of the former President's Committee on Employment of People with Disabilities have been integrated into this new office.

Housing

During the past decade, the lack of affordable and accessible housing has reached crisis proportions. According to the Department of Housing and Urban Development's most recent Annual Performance Report, estimates of home ownership indicate that only 2 percent of people with disabilities are homeowners and less than 5 percent of the 6.5 million people with disabilities living on SSI and SSDI are homeowners. In addition, the availability, affordability,

and accessibility of the nation's housing/rental stock is in jeopardy. Both the administration and Congress provided increases in the budget.

Transportation

Progress was noted in several areas of transportation this year. In March 2000, Congress enacted the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, containing important changes to the Federal Aviation Act (FA Act) and the Air Carrier Access Act (ACAA). These changes strengthened the mandates of nondiscrimination against air travelers with disabilities in both laws. In late summer 2000, the Office of the Inspector General initiated an air travel customer survey to determine how well the airline industry has fulfilled its pledge to meet higher customer service standards.

The Department of Justice entered a settlement agreement with Greyhound last year that obliges intercity or over-the-road bus (OTRB) services to put more accessible buses (equipped with operating lifts and other boarding devices) with properly trained operators on the road. Despite progress in the Greyhound case, however, persistent noncompliance perpetuates accessibility problems in many communities.

Technology

The Federal Government and Congress have undertaken a number of efforts to promote the development of new, accessible technology. These efforts include conducting a government-wide review of assistive technology activities; completing the work of the Web-based Education Commission; issuing new standards and regulations for electronic and information technology; securing commitments from technology companies, research firms, and nonprofit organizations to improve the accessibility and affordability of technology for people with disabilities; and the release of a DOJ report, *Information Technology and People with Disabilities: The Current State of Federal Accessibility*, that required self-reports from federal agencies detailing the extent to which agency electronic and information technology is accessible to, and usable by, people with disabilities.

International

In February, the United States Agency for International Development (USAID) released its second annual report on the implementation of the USAID disability policy first announced in 1998. The second annual report looked at the policy recommendations from 1998 to assess to what extent they had been implemented in 1999. The report stated that overall efforts to promote USAID's disability policy "have been disjointed and minimally effective despite some areas of internal support."

The United Nations held a Special Session of the General Assembly June 5-9, 2000, (known as Beijing+5) to follow up on the Fourth World Conference on Women held in Beijing in September 1995. Member governments in attendance reaffirmed their commitments to the Beijing Declaration and Platform of Action adopted to reduce the gap in equality between men and women that causes higher rates of infant mortality and higher levels of malnutrition. The final report of Beijing+5 recognized the need to address the concerns of women with disabilities in all policymaking and programming, including "special measures at all levels" to integrate women with disabilities "into the mainstream of development." Overall, the worldwide movement toward full inclusion and independence of people with disabilities has sparked a renewed call for an international convention on the human rights of people with disabilities. International disability organizations explored the usefulness of such a convention in promoting the goals of inclusion at the Rehabilitation International XIX World Congress held in Rio de Janeiro August 25-29, 2000.

In summary, NCD believes that Americans with disabilities have witnessed an incremental expansion of self-sufficiency and inclusion this past year. However, far too much of their time is spent defending the bedrock civil and human rights protections of the past 30 years against attempts to weaken laws such as ADA and IDEA. The shift in responsibility for the development of policy and program implementation from federal to state government may offer opportunities for innovation. At the same time, however, it adds tension and complexities to policies for people

with disabilities who rely on such programs as Social Security benefits, vocational rehabilitation, Medicaid, Medicare, special education, and workforce development.

PART I

Introduction

At the dawn of a new millennium, many Americans are reevaluating how they live, learn, work, and play. It is a natural time to question whether policies, programs, products, and practices that empower and include Americans with disabilities characterize the public and private systems that provide services.

During the second half of the past century, developments in public policy led to unprecedented statutory affirmation of the civil rights of people with disabilities, raising expectations of access, inclusion, and participation in the mainstream of American society. NCD believes that now is the time to transform systems to make good on the promise.

Part I of this document, which updates the Progress Report issued by NCD in 1999, will describe significant policy developments in the past year and offer recommendations for the President and the members of the 107th Congress of the United States of America.

Part II of the document will describe significant accomplishments of NCD and represents, in effect, NCD's Annual Report to the U.S. Congress.

Disability Statistics and Research

1. Census 2000

Every 10 years, the U.S. Census Bureau conducts a complete accounting of every resident in the United States. Individuals with disabilities will be affected if the 2000 Census is inaccurate. Census data are used by educators, policymakers, and community leaders and directly affect funding for many programs critical to individuals with disabilities, including programs for health care, transportation, employment training, and housing. Federal, state, and county governments use Census information to guide the annual distribution of $180 billion in critical services. Census information is used by state and county agencies to plan for eligible recipients under the

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Medicare, Medicaid, and Supplemental Security Income (SSI) programs; to distribute funds and develop programs for people with disabilities and the elderly under the Rehabilitation Act; to distribute funds for housing for people with disabilities under the Housing and Urban Development Act; to allocate funds to states and local areas for employment and job training programs for veterans under the Job Training Partnership Act, Disabled Veterans Outreach Programs; to ensure that comparable public transportation services are available for all segments of the population; to award federal grants under the Older Americans Act based on the number of elderly people with physical and mental disabilities; to allocate funds for mass transit systems to provide facilities for disabled persons under the Federal Transit Act; for a collection of job development services for disabled veterans, including counseling, job training, and placement services under the Disabled Veterans Outreach Program; to provide housing assistance and supportive services for low-income persons with HIV/AIDS and their families under the Housing Opportunities for Persons with AIDS program; and for Special Education Preschool Grants that make available special education for children ages 3 through 5.

Census questions about disability are designed to provide information that helps to define disability as a limitation in the ability to perform one or more major life activities. The two disability items included in Census 2000 aim to obtain information about health conditions that limit an individual in activities such as working at a job, going outside the home alone, and taking care of personal needs such as bathing, dressing or getting around inside the home. The individual activities are themselves of interest, and Census officials believe that the ability to identify persons with a limitation in one or more activities helps determine a valid overall measure of disability status. The two disability questions contained in Census 2000 were newly designed to address acknowledged shortcomings in the two disability questions contained in Census 1990.

NCD recommends that the U.S. Census Bureau immediately identify whether or not the newly redesigned Census 2000 disability questions corrected the shortcomings of the Census 1990 disability questions, and make that determination public.

It is reported on the Census Bureau Web site that Census 2000 data will be disseminated mainly using a new data retrieval system called the American FactFinder (AFF). Census 2000 data products are expected to be available beginning January 2001. The Census Bureau reports that the AFF will be accessible to the widest possible array of users through the Internet, including nearly 1,800 State Data Centers and affiliates; 1,400 federal depository libraries, and other libraries, universities, and private organizations. The AFF will locate and retrieve the information needed at the location of choice from some of the largest census databases. The American FactFinder is available directly from the Census Bureau's Web site (http://factfinder.census.gov/servlet/BasicFactsServlet).

NCD recommends that the U.S. Census Bureau verify that the AFF is accessible to people with disabilities, and that the Bureau not post any Census 2000 data products on its Web site until such time as the AFF (or some alternative search tool) is deemed accessible.

Materials that the Census Bureau disseminates to the public on its census activities generally do not list any text telephone (TTY, also referred to as TDD) numbers or contain any information on the Relay Services. For example, the telephone numbers listed in the Census Bureau's guide on the Census 2000 and the Census in Schools Project are voice numbers only. It appears that the Census Bureau makes information on its TTY numbers available in just a few of its publications, as in its guide entitled *People with Disabilities Answer the Census*. Such segregation of telecommunications information may not only cause difficulty for people with disabilities in contacting the Census Bureau, it could also detract from the public's perception of the Census Bureau's commitment to the full participation of people with disabilities in Census 2000.

NCD recommends that any telephone numbers that the U.S. Census Bureau generally publicizes for information or assistance in its print, electronic, television, and other media outlets should always be accompanied by TTY or Relay information to ensure that "We All Count." Furthermore, the Census Bureau should regularly test its public TTY numbers to ensure that all calls from TTY users are promptly answered. Finally, the Census Bureau should also ensure that

its Telephone Questionnaire Assistance program operators are trained on telecommunications accessibility and that such information is provided to the public as part of the Bureau's program activities.

2. Research Challenges

The United States has a variety of databases—national, state and private—on people with disabilities. The collection of data and research on people with disabilities has made incremental progress, at best, over the past year. As mentioned above, Census 2000 data products that will become available may shed light on the status of millions of Americans with disabilities. In addition, the Clinton administration has shown marked research interest in the areas of assistive technology and information technology. On the other hand, some current and major methods used to track employment changes over time (e.g., the Current Population Survey or CPS), according to key government researchers, are not appropriate tools to use to measure employment of people with disabilities over time. For example, there are no questions in the CPS that identify the group that is commonly thought of as the disability population. To attribute any change (increase or decline) to a specific statute or federal agency when there are no data from the survey that would provide empirical evidence linking the decline to that specific agency or statute is a common flaw. Therefore, because current CPS questions do not provide a valid measure of the disability population in the first place, researchers' conclusions about the employment rate trend for the disabled population and its underlying causes are not empirically supported. Nevertheless, federal funding is still supporting the production of research reports regarding employment of people with disabilities that rely exclusively on CPS data. This misplaced reliance is occurring despite the fact that the Presidential Task Force on Employment of Adults with Disabilities was specifically charged with the design and implementation of a statistically reliable and accurate method to measure the employment rate of adults with disabilities as soon as possible but no later than July 2002, the date of termination of the task force. Data derived from this methodology shall be published on as frequent a basis as possible.

NCD strongly recommends that the administration support the work of the Presidential Task Force on Employment of Adults with Disabilities and its collaborating agencies in the design and implementation of a statistically reliable and accurate method to measure the employment rate of adults with disabilities.

Our democracy and economy demand that public and private leaders have unbiased, relevant, accurate, and timely information on which to base critical decisions that have significant impact on the lives of Americans. The U.S. federal statistical system comprises some 70 agencies that collect, analyze, and disseminate information for use by governments, businesses, researchers, and the public. Statistics produced by the Federal Government on demographic, economic, and social conditions and trends are essential to inform decisions that are made by virtually every organization and household.

NCD strongly recommends that Congress conduct an extensive review of the scope and quality of federal disability statistical research activity under the aegis of the congressionally mandated Interagency Council on Statistical Policy. The goal would be to ensure that the principal statistical agencies continue to extend their collaborative endeavors to improve the overall performance and efficiency of the federal statistical system as it relates to, and includes, 54 million Americans with disabilities. NCD also strongly recommends that federal agencies review their current research-funded grants and contracts to ensure that research reports regarding employment of people with disabilities do not use unreliable databases (e.g., the CPS).

Civil Rights

1. ADA—10 Years Later

In July 2000, celebrations around the country marked the 10th anniversary of the Americans with Disabilities Act (ADA). These celebrations hailed the many gains for people with disabilities over the past 10 years, while recalling the sober reality of the many remaining barriers. While city streets in most places are more accessible than ever before, public transportation in many places remains inaccessible, unreliable, inconvenient, or untimely in varying degrees. Millions of

people using wheelchairs now have barrier-free entry to more buildings. It should be noted that much more work needs to be done, particularly for people with cognitive or mental impairments, who continue to fight for accessible programs offered to the public by both public and private entities. The victory celebration was decidedly mixed, as this year also brought the most aggressive court battles against ADA to date.

Recognizing the need to address these ongoing barriers, the Clinton administration issued a flurry of executive orders and regulations in commemoration of ADA's 10th anniversary. These measures included increasing federal employment opportunities and extending Social Security benefits for people with disabilities returning to work as well as establishing effective procedures for addressing disability-based discrimination in federal agencies. Another series of initiatives directed the improvement of Medicaid coverage and increased opportunities for youth with disabilities to successfully transition to the world of work and independence. Still other initiatives were aimed at creating home- and community-based service options for people with disabilities who live in nursing homes.

In late June 2000, the National Council on Disability issued a report entitled *Promises to Keep: A Decade of Federal Enforcement of the Americans with Disabilities Act,* which analyzed ADA enforcement efforts of the Department of Justice (DOJ), the Department of Transportation, the Equal Employment Opportunity Commission, and the Federal Communications Commission. In addition to recognizing the initiatives and positive action of these agencies, NCD's report identified significant shortcomings in enforcement. The lack of a coherent unified and unifying national enforcement strategy was a major weakness. Enforcement efforts have been shaped largely by an approach based on case-by-case complaint handling rather than compliance monitoring and follow-up technical assistance. Our research findings revealed that agencies, to varying degrees, have been hesitant to exercise leadership in litigating difficult or controversial cases or even in referring cases to DOJ for litigation. The efficiency of complaint handling has varied greatly across agencies. The process has been slow even in the best performing agencies, with unreasonably long delays in the worst. Despite several funding increases in the past decade,

no federal agency has an enforcement budget commensurate with the scope of its ADA mandates. Another significant finding was that agencies have provided few opportunities for appropriate input from people with disabilities in setting overall priorities for policy development and enforcement activities.

NCD recommended that the DOJ assert strong leadership in bringing together the federal enforcement agencies to develop a strategic vision and plan for ADA enforcement across the Federal Government, including a well-coordinated litigation strategy. All the agencies must look at how to focus their enforcement resources to increase the consumer-responsiveness of key operations such as complaint handling. All these actions should be undertaken with appropriate input and collaboration with people with disabilities.

Despite weaknesses in its enforcement efforts, DOJ has acted decisively to promote inclusion and accessibility for Americans with disabilities. In July 2000, DOJ released a report documenting the decade's many advances in access to public and private facilities and programs through enforcement action and negotiated settlements initiated by DOJ, as well as through voluntary compliance. Throughout FY 2000, DOJ intervened to help strengthen the legal foundation of ADA and to defend it from the onslaught of lawsuits attacking the very basis of the law. Seeking to strengthen a weak provision of ADA, DOJ continues the battle to establish insurance as a public accommodation under Title III, filing amicus briefs in two cases heard by the U. S. Court of Appeals for the Second Circuit. In the first, *Pallozzi v. Allstate Life Insurance Co.* (198 F. 3rd 28, Dec. 1, 1999), the Second Circuit agreed with DOJ, ruling that since ADA specifically relates to the insurance business and no other federal law prevents it from covering underwriting, ADA may cover the underwriter's decision not to issue a policy. In a second case, *Leonard v. Israel Discount Bank of New York* (199 F. 3rd 99, Dec. 8, 1999), however, the same Second Circuit court ruled that an insurance practice is protected by ADA's insurance exemption, whether or not it has an actuarial justification, when it complies with state law, and is not a subterfuge to evade the purposes of ADA. The court further ruled that a practice could not be deemed a subterfuge unless it was adopted after ADA became law.

DOJ also intervened to challenge discriminatory state practices in *Nored v. Weakley County 9-1-1 Emergency Communications District*. This lawsuit challenged a Tennessee state statute that prohibits people with "any apparent mental disorder," even the most minor, from occupying positions as public safety dispatchers. DOJ will broaden the suit to challenge five state statutes that prohibit people with apparent mental disorders from serving as public safety dispatchers, police officers, corrections officers, youth service officers, and sheriffs, and will seek relief for all persons injured by these laws.

NCD commends DOJ on its efforts to establish constructive policy positions in the context of litigation. The Department of Justice should make use of regulations, subregulatory guidance, and technical assistance documents to take a leadership role on policy issues in Title II and Title III enforcement and to help covered entities understand and comply with their responsibilities.

Between October 1999 and March 2000, DOJ intervened in six cases defending the constitutionality of ADA in permitting lawsuits directly against state governments alleged to have discriminated against people with disabilities. A case heard by the Court of Appeals in the Second U.S. Circuit was decided in favor of ADA constitutionality; a case in the Seventh U.S. Circuit was decided in favor of the state. The other four cases are pending. In October 2000, the widening controversy led the Supreme Court to address the constitutional issues in *Garrett v. University of Alabama*.

From its enactment, the constitutional basis of ADA has been the Fourteenth Amendment. In *Garrett*, Alabama argued that ADA does not meet the criteria for Fourteenth Amendment protection on two grounds: (1) Congress lacked enough evidence of states' failure to extend equal protection of the law to people with disabilities and (2) the requirements of ADA were not a proportionate response to the problem the statute addresses. Besides guaranteeing all citizens equal protection of the law and due process of law, the Fourteenth Amendment gives Congress the right to require states to pay money damages for equal protection violations. Amicus briefs filed by seven states argued that ADA's remedies for discrimination are disproportionate and go

beyond the equal protection rights guaranteed by the Fourteenth Amendment. Congress, therefore, lacked the authority to subject states to lawsuits under Title I and Title II of ADA. Fourteen states, however, countered with an amicus brief urging the Supreme Court to hold ADA's express abrogation of the states' Eleventh Amendment immunity to be a proper exercise of Congress' power to enforce the equal protection clause of the Fourteenth Amendment. The amicus brief filed by DOJ argued that ADA is constitutionally appropriate legislation providing a proportionate remedy for the well-documented history of pervasive discrimination by states against people with disabilities. The Supreme Court will announce its decision in early 2001.

The Court's decision will have a crucial bearing on the future of disability rights. If ADA were found to be unconstitutional as applied to states, the enforceability of its requirements regarding integration of state governmental programs, state architectural/program accessibility, and state employment could be severely undermined. Potentially even more devastating consequences could ensue with similar Court decisions striking down other provisions of ADA, Section 504 of the Rehabilitation Act, the Individuals with Disabilities Education Act (IDEA), and other essential civil rights protections.

The National Council on Disability gives its strongest recommendation to the Federal Government and Congress to preserve the goals embodied in ADA and ensure full enforcement of the law. Continuing barriers to inclusion and integration at every level attest to the ongoing need for federal protection of disability civil rights.

In late September 2000, the Supreme Court granted writ of certiorari for *PGA Tour, Inc. v. Casey Martin*. The PGA Tour is arguing that Title III does not apply to people competing in a professional sports event and that, even if it did, ADA does not require the competition to be "fundamentally altered" by allowing different competitors to play by different substantive rules. DOJ filed an amicus brief when this case was heard at the appellate level, arguing that the no-carts rule could be challenged under Title III and that waiving the rule in this case would be a

reasonable modification required by ADA. The Supreme Court heard the argument on January 17, 2001.

Regardless of the outcomes of *Garrett* and *Martin*, ADA protections already have been substantially eroded by Supreme Court decisions of 1999. In a series of cases, *Sutton v. United Airlines* (19 S.Ct. 2139 (1999)), *Murphy v. United Parcel Service* (119 S.Ct. 2133 (1999)), and *Albertsons, Inc. v. Kirkingburg* (119 S.Ct. 2162 (1999)), the Court substantially limited access to ADA protection from disability discrimination by employees with disabilities who use corrective measures to mitigate the effects of their disabilities. As a result of these decisions, a person who uses a device or medication to correct or minimize the impairment of a major life activity might no longer be protected from discrimination on the basis of that impairment. In other words, the court may find that the plaintiff is not a person with a disability within the meaning of the statute when corrective measures sufficiently offset the impact of his or her impairment. The implications of these decisions are broad, as these individuals may no longer qualify for protection under ADA even when an employer discriminates against them precisely because of a real or perceived disability. As a result of these cases, there has been a steady stream of federal court decisions that have severely constricted the breadth and reach of ADA.

In Congress, several amendments to ADA were proposed. The ADA Notification Act (H.R.3590) would have required people alleging a Title III violation to provide 90 days notice prior to filing a lawsuit and would impose penalties if the rule were not followed. H.R. 3590 was referred to committee. A second bill introduced in the House (H.R. 3170) would have amended ADA (among other civil rights laws) to eliminate protections for individuals unlawfully present in the United States by excluding them from the definition of "employee" with regard to employment in the United States. It also was referred to committee. A third bill, introduced in both the House (H.R. 3836) and the Senate (S. 1922), would have facilitated ADA compliance by modifying the Internal Revenue Code of 1986 to provide a tax credit for modifications to intercity buses, making them accessible as required under ADA. The bill has been referred to committee in both the House and Senate. None of the bills were scheduled for hearings.

NCD strongly recommends that the ADA Notification Act and the exclusion of undocumented workers from the scope of ADA coverage be dropped from the legislative agenda and additional resources be appropriated to strengthen ADA Title III technical assistance for better compliance.

2. Hate Crimes

Early last year, the Hate Crimes Prevention Act of 1999 was introduced in both the House (H.R. 77) and the Senate (S. 622). These bills proposed to extend the present hate crimes statutes to cover disability, gender, and sexual orientation; create federal criminal penalties for hate crimes; and increase appropriations for preventing and responding to alleged violations involving certain federally protected activities. The bills were referred to subcommittee in both houses and no hearings were scheduled. While legislative action has lagged during several congressional sessions, the DOJ, Bureau of Justice Assistance (BJA), began responding to the rising occurrence of hate crimes in 1997 with the National Hate Crimes Training initiative. Since then, curricula for officers, investigators, detectives, supervisors, and other law enforcement officers have been developed. BJA instructed 78 training teams in 1998 and supported local training teams with personnel and funding. During 1999, more than 4,000 law enforcement professionals received training. This year, BJA produced a video covering the major features of the training and sent a total of 14,000 copies to every state, county, and municipal law enforcement agency nationwide.

NCD commends the Bureau of Justice Assistance for its proactive work to combat hate crimes. NCD urges Congress to address the rising occurrence of hate crimes by reintroducing the initiatives of the 106th Congress in the new Congress. In addition, NCD recommends that hearings be held early in the term.

3. Genetic Discrimination

In 1999, separate measures were introduced in the House and Senate to prohibit discrimination against individuals and their family members on the basis of genetic information or a request for genetic information. The first of the two measures (H.R. 306 and S. 543), known as the Genetic

Information Nondiscrimination in Health Insurance Act of 1999, broadly prohibited genetic discrimination by health insurers and provided for compensatory, consequential, and punitive damages. The second measure, Genetic Nondiscrimination in Health Insurance and Employment Act of 1999 (H.R. 2457 and S. 1322), provided more specifics on prohibited discriminatory conduct by health insurers and prohibited employers, labor organizations, and training programs from genetic discrimination. Employers may request or obtain genetic information for very limited purposes. The bill authorizes appropriate legal and equitable relief for violations. Both measures were referred to subcommittees in both houses of Congress. No hearings were held on either measure in either house.

The administration, however, did take action. President Clinton issued Executive Order 13145 early in 2000 prohibiting every federal agency from using genetic testing in any hiring or promotion action. In instances in which a federal employer must obtain genetic information about an employee, all federal and state privacy protections will apply to ensure the confidentiality of such information.

NCD applauds the administration's strong stance and urges that legislation requiring nondiscrimination by both health insurers and employers be reintroduced and hearings scheduled as soon as possible after the 107th Congress convenes.

4. Voting Accessibility

S. 511, a bill to amend the Voting Accessibility for the Elderly and Handicapped Act, was introduced in the Senate on March 2, 1999. The amendments provided for ensuring that all polling methods used for federal elections be accessible to disabled and elderly voters, and that accessible voting procedures are in place to allow eligible voters to register at home, by mail, or by other means. The bill was referred to Senate committee, and no hearings were scheduled. Despite a significant increase in electoral participation by people with disabilities in the past decade, the November 2000 elections presented major barriers in many districts (inaccessible polling places, lack of assistance in casting ballots, etc.).

NCD urges the reintroduction of legislation in the 107th Congress that provides direction, incentives and flexibility to states in making federal elections accessible to people with disabilities.

5. Congressional Accountability Act

In 1995, Congress passed the Congressional Accountability Act (CAA) (P.L. 104-1), which extended the rights and protections of 11 employment and civil rights laws. Two of the eleven laws are the Americans with Disabilities Act (ADA) of 1990 and the Rehabilitation Act of 1973. The CAA also created the Office of Compliance, which is responsible for reviewing on a biannual basis which provisions of these 11 laws should apply to Congress. Unfortunately, the CAA does not apply to all instrumentalities of Congress. Specifically, it does not apply to the General Accounting Office, the Government Printing Office, or the Library of Congress.

To date, the Office of Compliance has not made a recommendation to extend this all-important civil rights coverage to all instrumentalities of Congress. In its recent report, *Review and Report on the Applicability to the Legislative Branch of Federal Laws Relating to Terms and Conditions of Employment and Access to Public Services and Public Accommodations*, the Office of Compliance stated, "Section 102(a) of Congressional Accountability Act (CAA) lists the eleven laws that shall apply, as prescribed by this Act, to the legislative branch of the Federal Government." The last page of the report further notes that "[W]hile the current Board Members are mindful of the institutional benefits of providing Congress with a clear recommendation as to coverage of the instrumentalities, the Board is of the view that further study and consideration of the questions presented is warranted in light of the complexity of the issues and the substantial impact that a modification would have on the instrumentalities and their employees." The report concludes by saying, "[T]he Board believes that Congress, and the instrumentalities and their employees, would derive greater benefit from a recommendation based upon further study, consideration and experience on the part of the Board Members. Therefore, the Board has determined not to make any recommendations with respect to coverage of General Accounting

Office, Government Printing Office, and the Library of Congress. under the CAA laws at this time."

NCD recommends that the Office of Compliance ensure that full coverage of the Americans with Disabilities Act and the Rehabilitation Act is extended to all instrumentalities of Congress, including the General Accounting Office, the Government Printing Office, and the Library of Congress.

6. Outreach to Diverse Cultural Groups

A large segment of the population, particularly those from diverse racial, cultural, and ethnic communities, continues to be excluded from full participation in all aspects of American society. Years of model programs, technical assistance, and other federal initiatives have left unchanged the status of the most disenfranchised—people with disabilities from diverse cultures. Overall concerns include (1) unequal protection and benefits under the same federal laws that have seen at least some level of implementation for the larger disability community and (2) the persistence of dual discrimination as a barrier to people with disabilities from diverse cultures. America's diverse population requires us to make a conscious effort to ensure that the needs of all people are addressed. NCD commends the leadership shown by the Clinton administration in elevating issues of cultural diversity to national focus.

6a. Think Tank 2000 on Diverse Cultures and Summary Report

Congressional representatives, national civil and human rights leaders, people with disabilities, and people from diverse cultures participated in NCD's May 2000 Think Tank project to refine a more inclusive public policy agenda pertaining to the needs of people from diverse cultures. The participants reached consensus on at least three areas for strategic action: (1) promote leadership development and include emerging leaders in public policy decisionmaking; (2) disseminate "user-friendly" and culturally sensitive information on rights and responsibilities; and (3) work to build and strengthen alliances with civil and human rights groups in the broader community. NCD was asked to continue assisting with dialogue around these issues. A summary paper from

the May 2000 work, *Carrying on the Good Fight: Summary Paper from Think Tank 2000—Advancing the Civil and Human Rights of People with Disabilities from Diverse Cultures*, can be accessed on the NCD Web site.

6b. President's Initiative on Asian Americans and Pacific Islanders

The President signed an Executive Order in 1999 aimed at increasing the participation of Asian Americans and Pacific Islanders in federal programs; on May 4, 2000, he named 15 members to the Advisory Commission on Asian Americans and Pacific Islanders. The commission studied ways to increase public sector, private sector, and community involvement in improving the health and well being of Asian Americans and Pacific Islanders, increase their participation in federal programs where they may be underserved, and foster research and data collection, including information on public health. This outreach effort elevated key issues to the White House level.

NCD commends this White House initiative and the determination of the affected communities to continue the work that was begun on behalf of Asian Americans and Pacific Islanders, including people with disabilities.

6c. New Legislation: Amendment to the Oath for Naturalization

The Immigration and Naturalization Service (INS) issued field guidance and policy modifications for naturalization processing and adjudication to INS field adjudicators on April 7, 2000. The guidance was unclear on how to accommodate applicants with severe disabilities with respect to the requirement that they understand the oath of allegiance. On November 6, 2000, the bill that was passed to amend the Immigration and Nationality Act (S.2812) became Public Law 106-448. The new law provides a waiver of the oath of renunciation and allegiance for naturalization of aliens having certain disabilities.

NCD commends the 106th Congress for taking this action. NCD recommends that

- *The INS should ensure timely processing of naturalization applications for applicants with disabilities.*
- *The Disability Rights Section of the Civil Rights Division of the Department of Justice, NCD, and the INS should work together to monitor implementation of recent INS efforts to address long-standing problems with its naturalization process regarding access for people with disabilities, and to proactively address issues that impact their citizenship applications.*

6d. Underserved and Unserved Diverse Communities: American Indian Disability Technical Assistance Center (AIDTAC)

In October 2000, the U.S. Department of Education funded a competitive grant for the first national Native American center, American Indian Disability Technical Assistance Center (AIDTAC). Located in Montana, the center helps American Indians and Alaskan Natives with disabilities to live integrated lives in their native communities. AIDTAC is committed to helping tribes build their capacity to develop and implement culturally appropriate laws and policies, crosscutting infrastructure, and direct program services.

NCD commends the Department of Education for funding this priority.

6e. Eliminating Language Barriers to Federal Programs (Executive Order 13166)

After decades of court struggles, on August 11, 2000, Executive Order 13166 was issued requiring that all federal programs using federal funds ensure that language barriers do not prevent participation in or benefit from these programs for non-English speakers and people with limited English proficiency. The order is intended to ensure that people from diverse cultures with disabilities and their families can take full advantage of federal laws, programs, and services

by providing them with easy-to-understand, culturally appropriate information about their rights under various federal laws and how to exercise these rights.

NCD recommends that the administration support the formation of an interagency team composed of representatives from the Departments of Education, Labor, Health and Human Services, Justice, and Housing and Urban Development, along with the Equal Employment Opportunity Commission, Small Business Administration, and Federal Communications Commission, to develop and implement a large-scale outreach and training program. NCD also recommends that the interagency team recruit, train, and contract with a core group composed of people with disabilities from diverse cultural backgrounds and their family members to help (1) develop the written materials and programs that will be used for the trainings; (2) translate materials into many languages with sensitivity to cultural appropriateness of terminology; and (3) conduct the trainings once the appropriate materials are translated, field-tested on sample groups, and produced for dissemination in communities.

NCD also recommends that Congress provide funding support to the federal partners and sponsors of the trainings in order to eliminate potential financial barriers to participation.

Education

1. NCD's Assessment Study of IDEA

In January 2000, NCD released a report that focused attention on public concerns about 25 years of monitoring and enforcement of the Individuals with Disabilities Education Act. Overall, NCD found that federal efforts to enforce IDEA over several administrations have been inconsistent and ineffective. Enforcement is too often the burden of parents, who must invoke formal complaint procedures and request due process hearings to obtain the services and supports to which their children are entitled under law.

Back to School on Civil Rights included findings based on the Department of Education's (ED's) monitoring reports that 90 percent (n = 45) of states were out of compliance with required general supervision to ensure that local educational agencies carry out their responsibilities under IDEA. In addition, 88 percent (n = 44) did not provide appropriate transition services to help students move from high school to post-school and adult living activities, and 80 percent (n = 40) failed to provide a free appropriate public education to students with disabilities. Despite long-standing noncompliance with these and other IDEA provisions in some states, ED made limited use of enforcement through its sanction authority. Although ED began to carry out a revised monitoring system (continuous monitoring improvement process), it failed to clearly include elements that addressed public concerns about the lack of consistent criteria for making noncompliance findings and for applying effective enforcement strategies, including triggers for the use of sanctions. At the writing of this Progress Report, NCD was working with the ED and students with disabilities, their parents, and other stakeholders to address a number of issues connected to improved IDEA monitoring and enforcement.

NCD recommends that the U.S. Department of Education Office of Special Education Programs (1) establish and use national compliance standards and objective measures for assessing state progress toward better performance outcomes for children with disabilities and for states achieving full compliance with Part B; (2) establish objective criteria that would trigger federal enforcement action, including sanctions, when states fail to comply; (3) consult with stakeholders to develop objective criteria for defining "substantial noncompliance;" and (4) develop and implement a range of enforcement sanctions linked to specific indicators and measures indicating thresholds that could signal failure to comply with IDEA requirements.

NCD also recommends that Congress authorize and fund the Department of Justice to independently investigate and litigate IDEA cases, as well as administer a federal system for handling pattern and practice complaints filed by individuals.

NCD recommends that as the new administration and Congress look at appropriations, they include the additional IDEA funding and the 10 percent set-aside provision for complaint processing, as described in the Back to School *report. Joint agreement among the Department of Education, Department of Justice, General Accounting Office, and Office of the Inspector General will enable regular and independent audits and greatly enhance efforts to decrease the burden of enforcement parents of children with disabilities have endured in expensive due process and court procedures over the past 25 years.*

2. Reauthorization of the Elementary and Secondary Education Act (ESEA)

The Educational Excellence for All Children Act proposed in 1999 supported improving educational outcomes for students with disabilities by (1) firmly committing to high standards in every classroom; (2) improving teacher and principal quality to ensure quality instruction for all children; (3) strengthening accountability for results coupled with flexibility for achieving them; and (4) ensuring safe, healthy, disciplined, and drug-free school environments where all children feel connected, motivated, and challenged to learn and where parents are welcomed and involved. The ESEA bill proposed that states receiving grants under the Act adopt policies and programs that incorporate these themes. The House of Representatives passed its version of the bill in 2000, but no major Senate floor action had occurred at the writing of this Progress Report.

NCD recommends that the new administration work with Congress to develop a comprehensive reauthorization of ESEA that meets the needs of all students, including students with disabilities. NCD urges Congress to support initiatives that research has shown to work: smaller classes, safe and modern schools, and qualified, well- trained teachers. Federal money set aside in ESEA should be used to support these types of programs and should not be sent back to states in the form of block grants.

NCD also recommends that the various administering offices and divisions within the Department of Education work together to ensure that the new administration and Congress are

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well informed about the impact of ESEA legislation on a substantial segment of students with disabilities whose families are living at or below the poverty level.

3. Department of Education Assessment Guidance

Overall accountability for educational results has been at the core of reform efforts undertaken by the vast majority of states and local education agencies in recent years. Among the many challenges faced in these efforts are (1) how to effectively measure and report student performance and (2) how to meet IDEA 1997 requirements to include students with disabilities. On August 24, 2000, the Office of Special Education Programs issued a guidance document, *Questions and Answers about Provisions in the Individuals with Disabilities Education Act Amendments of 1997 Related to Students with Disabilities and State and District-wide Assessment.* The guidance addresses issues such as (a) when a state (or local education agency) needs to conduct an alternate assessment; (b) what an alternate assessment is; and (c) whether individualized education program (IEP) teams may exempt children with disabilities from participating in the state or district-wide assessment program.

NCD commends the Department of Education for its response to the previously unanswered questions of practitioners, administrators, and policymakers responsible for improving educational results for children and youth with disabilities.

NCD recommends that the Department of Education provide leadership for the new administration and Congress on a coordinated perspective on meeting the assessment and educational accountability needs of all students, including students with disabilities.

4. Letter on Disability Harassment

On July 25, 2000, the Department of Education's Office on Civil Rights and Office of Special Education and Rehabilitative Services issued a document pertaining to disability harassment. The

document addresses (1) why disability harassment is such an important issue; (2) what laws apply; (3) how to prevent occurrences and how to respond; and (4) where technical assistance is available to the public. The information provides examples of harassment that could cause a hostile environment, resulting in adverse effects on a student's ability to participate in and benefit from the educational program. In addition, the document includes examples of harassment prevention and elimination measures that may be effective.

NCD commends the Department for its proactive dissemination of useful guidance to the public on this emerging issue.

Health Care

People with disabilities and chronic conditions have historically faced major hurdles in obtaining and maintaining private health insurance. NCD's 1993 report *Perspectives on Access to Health Insurance and Health-Related Services* found that while private health insurance is difficult to obtain and keep for many in the disability community, particularly in the individual insurance market, it is still the major source of coverage for people with disabilities.

A patients' bill of rights, therefore, should cover all 161 million individuals with private health insurance in order to ensure that its protections apply to all people with disabilities. Application of the patients' bill of rights to all privately insured people will have the added benefit of establishing a uniform set of protections on which all privately insured Americans can rely, regardless of their employer or the laws in states in which they reside. Privately insured people include the 48 million Americans who receive group health coverage from their employers who self-insure as well as the additional 113 million Americans whose group or individual health coverage is subject to state law.

1. Protections in Managed Care

Legislation to protect the rights of all people with disabilities and their families who need access to quality health care was introduced, but not enacted, by the 106th Congress. The primary area of controversy among proponents and opponents continues to focus on how to define and who determines "medical necessity."

The October 2000 release of a Harvard Medical School-led study (funded by the U.S. Agency for Healthcare Research and Quality) reported that people enrolled in managed health care plans in locations with relatively high percentages of residents on welfare or who are African American or Hispanic received generally poorer quality health care than other people. Previous studies have also shown the link among poverty, disability, and patterns of inequality of benefit for underserved populations in our country.

NCD calls upon Congress to formulate a comprehensive Patients' Bill of Rights that will cover health care concerns of people with disabilities, including provisions that appropriately define "medical necessity" and address issues pertaining to quality of care and who makes determinations about medical necessity.

2. America's Law Enforcement and Mental Health Project

America's Law Enforcement and Mental Health Project (P.L. 106-515) was signed into law on November 13, 2000. Among other things, the law authorizes the U.S. Attorney General to make grants to state and local governments to establish demonstration judicial diversion programs that involve (1) continuing judicial supervision, including periodic review, over preliminarily qualified offenders with mental illness, mental retardation, or co-occurring mental illness and substance abuse disorders who are charged with misdemeanors or nonviolent offenses and (2) the coordinated delivery of services. The law provides that the coordinated delivery of services

includes (1) specialized training of law enforcement and judicial personnel to identify and address the unique needs of a mentally ill or mentally retarded offender; (2) voluntary outpatient or inpatient mental health treatment in the least restrictive manner appropriate, as determined by the court, that carries with it the possibility of dismissal of charges or reduced sentencing upon successful completion of treatment; (3) centralized case management, involving the consolidation of all of a mentally ill or mentally retarded defendant's cases (including violations of probation) and the coordination of all mental health treatment plans and social services, including life skills training; and (4) continuing supervision of treatment plan compliance for a term not to exceed the maximum allowable sentence or probation for the charged or relevant offense and continuity of psychiatric care at the end of the supervised period.

NCD heard from a number of individuals with psychiatric disabilities who belong to organizations that represent millions of psychiatric survivors expressing a deep concern and fear that once an offender with psychiatric disability enters a diversion program, he or she would be judicially required to abide by the mental health treatment program even if it later proves to be inappropriate. Such an outcome would be inconsistent with the findings and recommendations of NCD's report, *From Privileges to Rights: People Labeled with Psychiatric Disabilities Speak for Themselves*, which underscored the inappropriateness and harm of forced mental health treatments.

Because of these concerns and other issues regarding the "voluntary" participation of individuals with cognitive or psychiatric disabilities in the mental health court system, NCD strongly recommends that the U.S. Department of Justice and its attorney general consult with people who are psychiatric survivors in the implementation of the law, including the development of any regulations or guidelines.

3. The Pain Relief Promotion Act of 2000

The proposed bill (H.R. 2260, S. 1272) is intended to permit the use of controlled substances to relieve pain or discomfort. It also authorizes the secretary of Health and Human Services to award $5,000,000 in grants to health profession schools, hospices, and other sites to develop and implement palliative care education and training; and authorizes the Agency for Healthcare Research and Quality in the Department of Health and Human Services to collect and disseminate protocols for palliative care. At the writing of this report, while the bill passed the House in the 106th Congress, the Senate action remained in its Judiciary Committee, with at least two hearings held over a two-year period. Concurrence leading to enactment of this legislation is needed to ensure protection of people with disabilities who may be more vulnerable than other people to the risks and dangers of assisted suicide under the guise of unregulated pain management. NCD underscores that this legislation promotes the right to human dignity and life for people with disabilities and has articulated its position in this regard in *Assisted Suicide: A Disability Perspective.*

NCD cautions the new administration and Congress to recognize the potential dangers of crafting a federal law that promotes pain management and does not protect the human rights of people with disabilities. NCD also urges the new Administration and Congress to recognize that it is often the discrimination, prejudice, and barriers that many people with disabilities encounter, and the restrictions and lack of options that this society has imposed, rather than their disabilities or their physical pain, that cause their lives to be unsatisfactory and painful.

Long-Term Services and Supports

"My Administration is committed to finding affordable ways to enable people who need long-term services and support to remain in the community if they choose and are able to do so. The best way to continue progress toward this goal is for state governments, the Federal Government, and the affected communities to work together to develop cost-effective ways to provide these

services. We must ensure that the quality of these services is excellent and that they are available to persons with disabilities of all ages."

President William J. Clinton, statement on the *Olmstead* decision, June 1999

In 1999, the Supreme Court affirmed ADA's integration mandate under Title II in *Olmstead v. L. C.*, 119 S.Ct. 2176 (1999), by declaring unnecessary segregation and institutionalization of people with disabilities a form of discrimination. The Court's decision presented a challenge to government and private entities across the country to create access to systems of cost-effective, community-based services. The past year has seen a growing impetus toward systems change at federal, state, and community levels to make possible a transition from institution-based to community-based care for people with disabilities.

The Clinton administration urged states to implement the *Olmstead* decision. The Department of Health and Human Services (HHS) has offered grant and demonstration programs, as well as technical assistance to states to develop plans for implementing *Olmstead*. The Social Security Administration developed initiatives to ensure that people with disabilities who are returning to their communities and seeking employment will retain essential supports.

Congress introduced several bills, including the Family Opportunity Act and the Older Americans Act Amendments of 2000, to create more avenues for accessing community-based supports necessary to meet the *Olmstead* mandate.

Finally, in areas where there has been little movement toward developing an *Olmstead* plan, both complaints and lawsuits have been filed to compel state action.

1. Olmstead v. L. C.—One Year Later

Following the Eleventh Circuit Court's *Olmstead* decision upholding the integration mandate of ADA, HHS instructed state Medicaid directors in July 1998 to ensure that their Medicaid programs complied with the mandate. In January 2000, following the Supreme Court's *Olmstead* decision, HHS Secretary Donna Shalala issued a letter to the governors of all 50 states, asking them to work with their state Medicaid directors and other agency staff to develop "fiscally responsible policies...to increase access to community-based services." Her letter was accompanied by one letter from the Health Care Financing Administration (HCFA) urging the States to (1) develop comprehensive, effective plans to strengthen community service systems and (2) actively involve people with disabilities in the design, development, and implementation of the plan. Initially, HCFA provided technical assistance materials for conducting the planning process. As ongoing support, HCFA sent follow-up letters in the spring and in July with updates on policy clarifications and reforms.

The response of the states has been mixed, according to a report of June 25, 2000, entitled *Olmstead Progress Report: Disability Advocates Assess State Implementation After One Year* prepared by the National Association of Protection and Advocacy Systems. This report presents findings from survey data collected on 42 states and Puerto Rico. Among the findings reported were these:

- Not one state has developed a plan that follows all the principles for plan development recommended by HCFA.
- Most states have taken at least preliminary steps to develop *Olmstead* plans: 7 states have executive orders or legislative resolutions requiring plans, 14 states have developed a draft or completed a plan, 12 states have a task force to review current systems of support for people with disabilities, and 9 states have declared they already comply and do not need a separate plan.

- Many disability advocates believe that their states are holding back on fully implementing *Olmstead* until pending court decisions are made in key cases and elections are over.
- Few states have increased funding for community supports and services.
- States have provided consumers (people with disabilities) with only limited opportunities for meaningful input into the planning process.
- State efforts have given limited attention to the needs of individuals with mental health and physical disabilities, often focusing on individuals with developmental disabilities.
- Several states signed amicus briefs in the *Garrett v. State of Alabama* case, asking the Supreme Court to overturn the constitutionality of ADA Title II.

Some states have taken notable action toward implementing *Olmstead* through their official commitments to include people with disabilities in all phases of planning and implementation, to eliminate unnecessary institutionalization, and to promote consumer choice and self-determination.

NCD recommends that the administration take immediate action to promote the monitoring and implementation of the Olmstead *decision among the states and use the bully pulpit of the White House to communicate the expectations of the* Olmstead *decision whenever possible.*

2. Administration Efforts to Support State Medicaid Programs

In October 2000, HHS announced the proposal of new rules of special significance to people with disabilities who do not want to live in an institution. Current rules allow people in institutions to qualify for Medicaid coverage at much higher income levels than if they lived in their communities. The restriction on Medicaid supports has been a barrier for those who wish to live on their own incomes in their communities but who need assistance. The new rule would enable people to live in their own homes with enough income to meet basic living expenses,

while obtaining the support services needed to manage with their chronic illness or disability. Under the proposed regulation, the Federal Government would spend an estimated $960 million over the next five years. Within the same time frame, states would be required to spend a matching amount.

3. Related Medicaid Legislation

Introduced in the Senate in November 1999, S. 1935, the Medicaid Community Attendant Services and Supports Act (MiCASSA), was referred to committee, where it remains. MiCASSA, which proposes to amend Title XIX of the Social Security Act, would provide coverage for community attendant services and supports under the Medicaid program. It would also authorize appropriations for grants to help eligible states that have a Consumer Task Force develop long-term service systems to offer alternatives to eligible individuals about where they receive certain types of Medicaid long-term services and supports. In November 2000, Senate sponsors proposed that the Senate Appropriations Committee hold hearings on the bill.

As in its previous Progress Reports, NCD reiterates its strong recommendation that Congress and the administration enact MiCASSA by the end of the 106th Congress to meet the needs and desires of older Americans and citizens with disabilities to live in their own homes to the fullest extent possible.

On the House side, H.R. 5601 (revised to H.R. 5612), the Medicare, Medicaid, and State Child Health Insurance Program (SCHIP) Benefits Improvement and Protection Act of 2000, was introduced on November 1, reviving an earlier version of the bill vetoed by President Clinton on October 17, 2000. H.R. 5612 contains the improvements requested by the President. Its provisions include improvements to Titles XVIII, XIX, and XXI of the Social Security Act to enhance benefits and beneficiary protections in Medicare, Medicaid, and SCHIP. The bill proposes to restore full home health care services for FY 2001 and to streamline approval of waivers under Title XIX. The Family Opportunity Act (H.R. 4825), which became part of the

previous bill (H.R. 5612), would amend Title XVIII to allow families whose incomes are within 200 to 300 percent of the federal poverty level to purchase Medicaid to cover the medical needs of their disabled children. A Senate bill parallel to H.R. 4825 has been introduced and referred to the Senate Committee on Finance (S. 2274).

NCD recommends that the new administration and Congress pass MiCASSA during the 107th legislative session.

The Older Americans Act Amendments of 2000, signed into law in November 2000, authorizes a National Family Caregiver Program providing $125 million in federal assistance to help families care for family members through a multifaceted system of support services. The program will extend support services to families caring for their older members at home, as well as older people caring for their adult children with mental retardation and developmental disabilities.

Youth

From a national perspective, the post-school outcomes for many of our youth and young adults with disabilities remain dismal, despite a number of advances realized by youth and young adults with disabilities through education, disability rights policy, the support of federal mandates, and the funding of programs and initiatives intended to impact all youth. During FY 2000, a number of national initiatives were undertaken to begin remedying this situation. These efforts laid a foundation that requires further building in the form of effective systems at federal, state, and local levels.

1. *Transition and Post-School Outcomes for Youth with Disabilities: Closing the Gaps to Postsecondary Education and Employment*

The Social Security Administration (SSA) and NCD released a joint report on November 1, 2000, that calls attention to persistent issues and problems documented in national post- school

studies. While postsecondary education participation showed slight improvement, more youth with disabilities found themselves unable to gain employment and wound up permanently on Social Security benefit rolls. The report also found that rates of graduation by earning regular high school diplomas are 27 percent for youth who received special education and 75 percent for those who received only general education. Youth with disabilities who had vocational or other on-the-job training opportunities were less likely to stop work and return to Social Security Disability Insurance (SSDI) dependency than were older disability insurance beneficiaries. Young people from diverse cultural groups faced additional barriers such as lack of attention to limited English proficiency, culturally inappropriate strategies or information, and insensitive service providers.

The report also identifies what has worked and what should work in light of promising new federal legislation, unmet needs, and unserved populations, and presents recommendations for national, state, and local community action. One of the best strategies for improving the quality of school programs and post-school outcomes is, unfortunately, the least often used. Carrying out IDEA transition services requirements and, where appropriate, the Rehabilitation Act provisions for all who are determined to be eligible for services and supports enables students with disabilities to move effectively from school to post-school independence and achievement.

NCD strongly recommends that the new administration and Congress support the need for an overarching focus on open communication and deliberate collaboration across all federal agencies, entities, and systems that need to be involved in preparing our nation's young people with disabilities for full participation in society. These efforts need to begin with dialogue among the affected parties and should include youth with disabilities, adults with disabilities, and people from the grassroots communities. Systemic collaboration must also include the broader workforce development systems such as Job Corps, apprenticeship training programs, and general equivalency degree (GED) programs.

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NCD also urges that there be more effective monitoring and enforcement and public accountability for transition and post-school outcomes. All agencies responsible for administering federal laws and initiatives designed for all youth must be held accountable for reporting how and to what extent they are increasing outreach and providing appropriate supports or accommodations that will give young people with disabilities an equal opportunity to benefit.

2. Youth Leadership Network for Youth with Disabilities

The national Youth Leadership Network (YLN) is a five-year project involving the Department of Education, the Social Security Administration, the Department of Labor the Department of Health and Human Services, and the National Council on Disability. The project is research-oriented and designed to include annual leadership training for youth ages 16 through 24 with disabilities. YLN conferences provide leadership training through discussions of ways young people can help the federal agencies (1) determine and update the impact of barriers to successful adult life, (2) identify what works and promising practices, and (3) highlight actions that should be implemented at the national, state, and local levels that reflect the perspective of youth with disabilities.

NCD commends the involved agencies for their foresight and continuing sponsorship of this conference initiative. NCD also commends the outreach efforts of the Department of Education, Office of Special Education Programs, which included input meetings with policy and/or program staff at each sponsoring agency.

NCD encourages the new administration to support recommendations for improvement that will result from the evaluation component of this youth leadership project. NCD will also continue to encourage states and other entities that have not done so to emulate the success of the Leadership Conference among youth with disabilities in their geographic areas.

3. Expanding Employment Opportunities for Young People with Disabilities Subcommittee of Access to Employment and Lifelong Learning Committee (Presidential Task Force on the Employment of Adults with Disabilities)

On October 25, 2000, to provide for improved access to employment and training for youth with disabilities, the President amended Executive Order 13078 of March 13, 1998, by adding the following subsection to section 2: "(h) To improve employment outcomes for persons with disabilities by addressing, among other things, the education, transition, employment, health and rehabilitation, and independent living issues affecting young people with disabilities, executive departments and agencies shall coordinate and cooperate with the Task Force to: (1) strengthen interagency research, demonstration, and training activities relating to young people with disabilities; (2) create a public awareness campaign focused on access to equal opportunity for young people with disabilities; (3) promote the views of young people with disabilities through collaboration with the Youth Councils authorized under the Workforce Investment Act of 1998; (4) increase access to and utilization of health insurance and health care for young people with disabilities through the formalization of the Federal Healthy and Ready to Work Interagency Council; (5) increase participation by young people with disabilities in postsecondary education and training programs; and (6) create a nationally representative Youth Advisory Council, to be funded and chaired by the Department of Labor, to advise the Task Force in conducting these and other appropriate activities."

NCD commends the President for recognizing the preemployment and employment issues and needs of young people with disabilities and for making these a priority focus for federal interagency attention through Executive Orders and directives.

NCD encourages the new administration to support completion of the remaining components of this Youth-to-Work Initiative and to ensure that strategies and evaluation are given serious attention and support across federal agencies. NCD also encourages the administration to build upon these first steps, including (1) placing high priority on administering agencies' public accountability for the education and employment outcomes of youth with disabilities and (2)

renewing efforts to remove any remaining barriers to appropriate health care, education, job training, housing, transportation, employment, and, where needed, adaptations, accommodations, and supports for long-term employment and career advancement.

Employment

1. Creation of a Disability Office in the Department of Labor

The Clinton administration supported establishing an Office of Disability Employment Policy (ODEP) in the Department of Labor (DOL) and improving access for adults with disabilities to employment services offered through the one-stop system. The President's FY 2001 budget included $20 million for ODEP. Under the leadership of an assistant secretary, ODEP's mission will be to dramatically increase the employment rate of people with disabilities by implementing an aggressive strategy to eliminate barriers and create meaningful employment opportunities for people with disabilities. This office will subsume the President's Committee on Employment of People with Disabilities in an effort to reduce duplication and enhance coordination of federal employment programs for people with disabilities. The office will work within DOL to increase the participation of people with disabilities in all its training programs, with a targeted emphasis during its initial years on those serving youth.

NCD commends the Clinton administration and the U.S. Congress for implementing a previous NCD recommendation from the report Achieving Independence *by creating and funding ODEP.*

NCD recommends that ODEP immediately support the development and timely implementation of a measurement system that tracks and reports on the employment status of Americans with disabilities, on at least an annual basis, over time. NCD also strongly recommends that ODEP work to ensure that all Department of Labor units review their current research-funded grants and contracts to ensure that federal funding is not provided to support the production of research reports regarding employment of people with disabilities that rely exclusively on the

Survey of Income and Program Participation (SIPP) and the Current Population Survey (CPS), as well as other federal statistical efforts, that contain known statistical and other shortcomings.

2. Implementation of the Ticket to Work and Work Incentives Improvement Act

The Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA) was produced through the bipartisan efforts of the administration, Congress, and the disability community. On December 17, 1999, the President signed this historic bill into law. This legislation will help provide better health care options for people with disabilities who work.

TWWIIA will improve employment opportunities by creating new options and incentives for states to offer a Medicaid buy-in for workers with disabilities; extending Medicare coverage for an additional 4 ½ years for people on disability insurance who return to work; creating a $250 million Medicaid buy-in demonstration to help people whose disabilities have not yet progressed so far that they cannot work; and enhancing employment-related services for people with disabilities through the new Ticket to Work program. TWWIIA also creates a Work Incentive Grant program to provide benefits planning and assistance, facilitate access to information about work incentives, and better integrate services to people with disabilities who are working or returning to work.

Under TWWIIA, states receiving Medicaid Infrastructure Grants from the Health Care Financing Administration (HCFA) will use the funds to remove barriers to employment for people with disabilities by creating health systems change through the Medicaid program. The development or enhancement of certain core Medicaid components in each state will enable people with disabilities not only to work but to sustain adequate health coverage if they find they need to relocate to another state for employment purposes. An adequate personal assistance services and supports benefit and a Medicaid buy-in for employed people with disabilities are, therefore, significant components of the TWWIIA. This grant program provides money to the states to develop these core elements. Twenty-five states were awarded Medicaid Infrastructure Grants in

2000 during the first grant cycle. All 25 of these states plan to use a portion of their grant award to study, implement, or improve a Medicaid Buy-in program. In addition, 19 of these states will use a portion of their grant award to study or improve Medicaid services designed to support the competitive employment of people with disabilities.

NCD recommends that the administration strongly encourage and support the participation of all states in the grants demonstration program. In addition, NCD recommends that the administration track and report to Congress on the status of the implementation of these Olmstead *initiatives.*

3. Expanding Hiring by the Office of Personnel Management

On June 4, 1999, the President signed an Executive Order ensuring that individuals with psychiatric disabilities are given the same hiring opportunities as people with significant physical disabilities or mental retardation. On March 17, 2000, the Office of Personnel Management (OPM) issued proposed regulations to create a new government-wide excepted appointing authority for individuals with psychiatric disabilities. This authority will broaden the category of people who may noncompetitively acquire competitive civil service status after two years of successful service, providing individuals with psychiatric disabilities the same hiring opportunities already offered to individuals with mental retardation and significant physical disabilities.

4. Interagency Strategies to Improve Employment of Adults with Disabilities

The Social Security Administration, the Department of Health and Human Services, the Department of Labor, and the Department of Education are all participating in interagency demonstration projects to expand job opportunities for people with disabilities. For instance, ED has awarded six systems-change grants to establish models of improved cooperation and

coordination between state vocational rehabilitation programs, public employment/employment training programs, and other related programs. The grants will help reduce barriers to employment and increase the capacity of states' overall employment system to serve individuals with disabilities. The focus of these systems change projects is to increase the employment rate of individuals with disabilities who are currently receiving support through public programs.

In addition, SSA is working under cooperative agreements with 12 states to develop innovative projects to help adults with disabilities reenter the workforce. This activity, the State Partnership Initiative, is designed to help states develop innovative and integrated statewide programs of services and supports for their residents with disabilities that will increase job opportunities and decrease dependence on benefits, including Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI). Moreover, the President's Committee on Employment of People with Disabilities (PCEPD) has worked to coordinate a commitment by the U.S. Chamber of Commerce, the Society of Human Resource Managers, and dozens of private sector companies to support several initiatives to advance the employment of people with disabilities. Initiatives include forming local and state employer-led groups to advocate for the employment of people with disabilities, launching a nationwide campaign to advance the employment of people with cognitive disabilities, and supporting PCEPD's career exploration and employment programs for youth with disabilities.

Welfare Reform

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) was enacted in 1996 and fully implemented at the state level in the fall of 1997. This legislation replaced the Aid to Families with Dependent Children (AFDC) program with a new, capped Temporary Assistance to Needy Families (TANF) block grant. PRWORA shifted the emphasis of welfare reform activities from a "human capital" to a "work first" philosophy that encourages TANF

recipients to move into employment as soon as possible. Indeed, PRWORA prohibits states from using TANF grant funds to provide assistance to a family that includes an adult who has received TANF assistance for five years. PRWORA permits states to exempt up to 20 percent of their average monthly TANF caseload from this lifetime limit for reasons of hardship.

1. Parents with Disabilities and Parents Who Have Children with Disabilities

At the time of PRWORA enactment, 12.2 million people received AFDC. By August 1999, the number of TANF recipients had declined to 7.3 million. Most of the people who remained on TANF have been unable to secure jobs, let alone achieve economic self-sufficiency. Often described as the "hardest to serve," these people (most are female and in their mid-twenties) face multiple and complex barriers to steady employment. A substantial percentage of these TANF parents have low education and skill levels. Over half of theme face formidable barriers because of learning disabilities, mental retardation, and emotional or behavioral problems.

Despite the "work first" philosophy of the new law, a National Governors Association (NGA) analysis of studies in nine states shows that a substantial proportion (40% to 70%) of former recipients who left the TANF program did so without a job. NGA concluded that most TANF recipients entering the labor force have failed to become economically self-sufficient or to secure employment or self-employment with good career development potential. Among TANF recipients who did find work, most entered the low-wage labor market and were concentrated in the lowest-wage occupations, where most earned between $5.50 and $7 per hour. Recent studies have found that about half of these former TANF recipients were unemployed or only marginally employed one year after leaving the program. Research further shows that most of these recipients experience a long period of unemployment before becoming reemployed. For those TANF recipients who do sustain employment, a key factor that appears to predict significant career advancement is the development of basic skill levels and education beyond high school. Congressional reauthorization of TANF is scheduled for 2001. Practitioners and state policymakers are working hard to understand what it will take in the context of a "work first"

philosophy and time-limited assistance for the "hardest-to-serve" TANF recipients (particularly those with special learning needs) to achieve sustained economic self-sufficiency.

Although some states and communities are collaboratively working to help people with disabilities prepare for and sustain employment, others have not done so. This situation results in unintended barriers that cause adverse consequences such as decreased access to community-based services for parents with disabilities, food and nutrition supports for their children, health insurance, and quality health care. Greater emphasis on systemic collaboration among federal, state, and local entities is needed on a national scale to remove barriers, make links, and combine resources. Welfare, education, and workplace reforms need to be connected, especially for people with disabilities who are or have been previously eligible for public assistance programs.

NCD encourages the administration to work with states to (1) help them establish a "livable wage" as the long-term outcome goal of the welfare-to-work reform; (2) help them build an inclusive education and workforce system that integrates work and learning; and (3) help them explore and replicate community-based empowerment models that support successful welfare-to-work approaches for people with disabilities.

2. Federal Efforts: Access to Employment Committee and Lifelong Learning Committee (Presidential Task Force on the Employment of Adults with Disabilities)

NCD's 1999 Progress Report encouraged the President and administering agencies for programs such as welfare-to-work to recognize the disability-related needs and supports that must be in place to realize long-term employment goals. Inroads are attributed, in part, to single agency efforts and cross-agency initiatives by subcommittees of the Access to Employment and Lifelong Learning Committee of the Presidential Task Force on the Employment of Adults with Disabilities. A guidebook to educate welfare agencies about an array of disabilities was prepared by the Access Committee and disseminated at the Department of Labor's October 2000 Welfare-to-Work: Beyond 2000 conference. Other welfare-to-work activities included (1) participation

with the Office of Vocational and Adult Education, the Department of Health and Human Services, and the National Institute for Literacy to train four states on learning disabilities and TANF programs; (2) discussion of protection and advocacy ombudsmen for people with disabilities in the TANF program; and (3) consideration of adopting the Workforce Investment Act Section 188 nondiscrimination regulations for the TANF program.

NCD commends the coordinating agencies on taking these concrete actions to address identified barriers to employment. NCD recommends that the new administration and Congress obtain critical information on the results of these initial action steps and recognize that the strategies that are effective in moving people from welfare to work may have important lessons for the growing effort to move people from reliance on disability benefit programs to long-term employment.

Housing

In *Achieving Independence,* NCD made a number of recommendations regarding housing and the Federal Government's role. The following policy activities undertaken by the Federal Government in 2000 relate to many of NCD's recommendations from that report.

1. Increasing Housing Options

In the Department of Housing and Urban Development's (HUD's) recent Notices of Funding Availability, the agency included bonus points for developers who build structures that include "visitability" by people with disabilities. *NCD supports this incentive.*

2. Working for Fair Housing

In response to the increase in reported cases of serious fair housing violations, HUD committed to doubling the number of civil rights enforcement actions by the year 2000. *NCD applauds this commitment.*

3. HUD Funding Available

Congress directed HUD to make available over $90 million to fund new Section 8 vouchers targeted to people with disabilities. Accordingly, on February 24, 2000, HUD announced the availability of 9,000 Section 8 vouchers for people with disabilities. Public Housing Authorities are eligible to apply for all the available vouchers, and nonprofit disability organizations are eligible to apply for 1,800 of the vouchers made available through the Mainstream Program for People with Disabilities. *NCD endorses this commitment of resources.*

4. HUD 2001 Budget

HUD's budget request for 2001 included a $9 million increase for the Section 811 Supportive Housing for Persons with Disabilities Program, for a total appropriation of $210 million. In addition, for the first time, HUD's budget included a request for $20 million to fund Section 8 vouchers targeted to people with disabilities, in an effort to compensate for the huge loss of affordable housing units for nonelderly people with disabilities as a result of many public buildings being designated as "elderly only." *NCD endorses this commitment of resources.*

5. Home Ownership and Rental Housing

An October 26, 2000, informational release from HUD reports that "the percent of Americans who own their own homes hit a record high 67.7 percent in the third quarter of 2000....There are now 71.6 million homeowners in the United States....In addition to the historical national home ownership rate, all-time high rates were set for minorities (48.2 percent), Hispanics (46.7 percent), central city residents (51.9 percent), households headed by females (53.3 percent),

households earning less than the median family income for the quarter (52.2 percent), and married couples (61 percent)." HUD reported that it would raise its sights and look to increase home ownership rates "in order to increase minority ownership to more than 50 percent."

During the past decade, housing problems confronting people with disabilities and people with low incomes, particularly the lack of affordable and accessible housing, has reached crisis proportions. According to HUD's annual performance report for the year 2000, estimates of home ownership indicate that only 2 percent of all people with disabilities are homeowners and less than 5 percent of the 6.5 million people with disabilities living on SSI/SSDI are homeowners.

In 2000, with increasingly tight housing markets and the rising cost of rents, it was virtually impossible for a low-income person with a disability to afford modest housing without government assistance. Nationwide, the income of a person with a disability receiving SSI benefits is only 24.4 percent of the average one-person income. At this income level, the person must spend approximately 69 percent of his or her income to rent a modest one-bedroom apartment. Not only have available resources declined, but access by people with disabilities to existing affordable housing has been reduced as well. Unfortunately, many people with disabilities live on limited or fixed incomes, and restrictive SSI and Medicaid regulations prohibit them from accumulating enough savings to afford the downpayment, closing costs, and long-term repair expenses associated with home ownership. These restrictions, along with institutional barriers and the stigma of disability, have kept many financial institutions and government housing officials from viewing home ownership as a viable option for people with disabilities.

HUD released its report to Congress, entitled *Rental Assistance—The Worsening Crisis*, in March 2000. The report contains statistics regarding nonelderly disabled families who are experiencing housing problems such as overcrowding or a high rent burden (using more than half of their

incomes for rent). The report found that the number of nonelderly adults with disabilities in families with worst-case housing needs was between 1.1 million and 1.4 million.

NCD recommends that, through an Executive Order, the administration create an interagency task force on home ownership and rental housing for people with disabilities. The task force should include HUD, DOL, HHS, DOJ, SSA, and other relevant agencies. Congressional representation would also be solicited from key committees. The overall charge of the task Force would be to identify, secure, and target resources sufficient to realistically allow HUD to include people with disabilities as an additional "minority group" that would benefit from HUD's targeted home ownership rate of 50 percent. The task force would also be responsible for identifying and removing federal legislative, policy, and program barriers to home ownership and affordable and accessible rental options for people with disabilities.

Transportation

1. Amendments to the Federal Aviation Act and the Air Carrier Access Act

In March 2000, Congress enacted the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21), containing important changes to the Federal Aviation Act (FA Act) and the Air Carrier Access Act (ACAA). These changes strengthened the mandates of nondiscrimination against air travelers with disabilities in both laws. Foreign air carriers operating within the U.S. air transportation system now must follow the same rules of nondiscrimination as domestic U.S. carriers (14 C.F.R. Part 382). One amendment calls on the Secretary of Transportation to work with appropriate international organizations to establish higher (international) air transportation standards for accommodating air travelers with disabilities.

NCD urges the secretary of Transportation to exercise leadership in bringing together representatives of key international aviation organizations to reach agreement on international standards of accommodation.

The new amendments require the secretary to investigate each complaint of an ACAA violation. The penalty for violations, increased from $1,100 to $10,000 for each offense, may be levied for each individual act of discrimination. In the 18 months after NCD issued its report on ACAA enforcement in February 1999, the Department of Transportation (DOT) issued eight cease-and-desist orders against airlines for findings of ACAA discrimination and levied $130,000 in civil penalties. While violations continue, this represents a significant increase in enforcement activity over previous years.

AIR-21 also obliges the secretary of Transportation to publish disability-related complaint data in a manner comparable to other consumer complaint data, regularly review all complaints received by air carriers alleging discrimination on the basis of disability, and report annually to Congress on the results of such review. To support greater compliance, the secretary is required to work with the Department of Justice, the Architectural and Transportation Barriers Compliance Board (Access Board), and NCD to develop a technical assistance plan and make materials available to individuals and entities with rights and responsibilities under the law.

NCD urges the secretary to work collaboratively with the named organizations to develop a plan with measurable objectives and timelines, and to engage in ongoing consultation with the disability community regarding priority issues in compliance and enforcement.

In late summer 2000, the Office of the Inspector General initiated an air travel customer survey to determine how well the airline industry has fulfilled its pledge to meet higher customer service standards. The airlines voluntarily agreed to meet these standards in lieu of new regulations to address the steady decline in quality of service. One part of the survey addressed air travelers

with disabilities and dealt primarily with ACAA compliance. Disability organizations posted links to the DOT survey on their Web sites and encouraged their members to provide feedback. The Inspector General issued a report with the survey results, identifying adequate and timely assistance as particular problems to which the airlines must give special attention. The report noted that over half the complaints DOT receives concern these issues. Among the report's recommendations was that airlines should consider establishing advisory councils, including people with disabilities, to help address the needs of air travelers with disabilities and special needs.

NCD commends the Inspector General for this important initiative to determine the impact of voluntary compliance policies and urges the Office of Consumer Protection to take prompt follow-up action on the findings.

2. Accessibility of Over-the-Road (Intercity) Buses (OTRB)

The Department of Transportation, through the Transportation Equity Act for the 21st Century (TEA-21), has committed to OTRB accessibility by authorizing $14.3 million to support the capital and training costs of ADA compliance to companies providing substantially or exclusively intercity, fixed-route over-the-road bus service. Between FY 1999 and 2003, the Rural Transportation Accessibility Initiative Program will make a total of $17.5 million available only to OTRB companies that provide fixed route service. Between FY 2000 and FY 2003, another $6.8 million will be available to OTRB companies that provide local commuter service, charter, or tour services.

3. Action by the Department of Justice

The Department of Justice entered a settlement agreement with Greyhound last year that obliges the intercity or OTRB service to put more accessible buses (equipped with operating lifts and other boarding devices) with properly trained operators on the road.

- Between April 20, 2000 and October 1, 2000, Greyhound agreed to have lift-equipped bus service available between all its destinations, except under a very limited set of conditions ("excusable circumstances"), with 48 hours' advance notice. Boarding assistance must be provided even when excusable circumstances exist.
- As of October 2000, all newly purchased or leased buses must be lift-equipped.
- By October 28, 2012, all OTRBs must be lift-equipped. When Greyhound's entire fleet is lift-equipped, 48 hours' notice will no longer be required.

Despite progress in the Greyhound case, persistent noncompliance perpetuates accessibility problems in many communities. DOJ filed an amicus brief in *James v. Peter Pan Transit Management, Inc.*, a case in which the plaintiff charged that inaccessible service provided by Peter Pan Transit denied her equal access to public transit in Raleigh, North Carolina. The DOJ brief asserted that the public transit authority may be held liable under Title II for discrimination by a private company providing bus service to the public under a contract with the transit authority and urged that the plaintiff's claim for damages not be dismissed. The U.S. District Court for the Eastern District of North Carolina ruled to allow the lawsuit.

DOJ also intervened in a case brought by two wheelchair users who claim that they were denied equal access to the public transit system in Steamboat Springs, Colorado. The lawsuit, *Richardson and Steele v. City of Steamboat Springs, Colorado*, has been ongoing in the U.S. District Court for the District of Colorado. DOJ's brief supports plaintiffs' claims by alleging that the city purchased inaccessible used buses without first making the required good faith efforts to purchase accessible buses, failed to repair inoperable wheelchair lifts or provide alternative transportation while wheelchair lifts were inoperable, and did not adequately train bus drivers in the operation of wheelchair lifts.

NCD commends the litigation efforts of the Department of Justice, and urges it to initiate more intensive collaboration with the Department of Transportation to identify cases of persistent noncompliance with transportation accessibility for legal action.

Technology and Telecommunications

1. Information and Assistive Technology Initiatives

The Clinton administration's FY 2001 budget included $100 million (a $13.5 million increase) for disability and technology research at the National Institute on Disability and Rehabilitation Research (NIDRR). NIDRR will launch a technology initiative that includes $5 million for an educational technology initiative to provide technical assistance and training to elementary and secondary schools; $3.4 million for an employment initiative to carry out research, training, and technical assistance to enhance the ability of individuals with disabilities to access and use information and communication technology; and $5.1 million for a community independence initiative to study how information and assistive technology can be used to enhance community integration and participation by individuals with disabilities. The administration's request also includes $15 million to support grants that establish or maintain alternative loan financing programs. Most people with disabilities do not have the private financial resources to purchase the assistive technology they need. If approved, this increase would significantly enhance the opportunities for individuals with disabilities to take advantage of assistive technology.

In addition, from June to September 2000, the administration focused intensely on the areas of assistive technology and information technology. During this period, the Clinton administration was particularly active in working to create digital opportunities for Americans with disabilities: President Clinton issued one Executive Order and four Executive Memoranda. On July 25, the President issued Executive Order 13164, which requires federal agencies to establish procedures to facilitate the provision of reasonable accommodations. On the same day, he issued a Memorandum that detailed a strategy for the development and transfer of assistive technology and universal design. The next day, he issued a Memorandum that renewed the administration's

commitment to ensure that federal programs are free from disability-based discrimination. Also on July 26, the President issued a Memorandum emphasizing the federal commitment to employing people with significant disabilities to fill federal agency jobs that can be performed at alternative work sites, including the home. On September 21, the President directed the secretary of Health and Human Services to convene an interagency Task Force on Health Care Coverage of Assistive Technologies that includes the Departments of Health and Human Services, Justice, Education, Labor, Veterans Affairs, and other agencies, as appropriate. The task force will study the role that Medicare and Medicaid do and should play in the coverage of assistive technology devices. The work of the task force is intended to provide a framework for future Medicare and Medicaid coverage decisions that complement the administration's overall efforts to promote employment opportunities for people with disabilities. In his Memorandum, the President directed the task force to conduct a study on the role of Medicare and Medicaid in covering assistive technologies that encourage employment of individuals with disabilities.

NCD strongly endorses and applauds the technology initiatives set forth by the Clinton administration. NCD urges the Bush administration to foster research on the economic and social impacts of assistive technology on the lives of people with disabilities of all ages.

2. Access Board and Section 508

In March 1999, the Access Board proposed standards for federal electronic and information technology that were available for public comment until May 30, 2000. The Board is developing these standards under Section 508 of the Rehabilitation Act Amendment of 1998, which requires access to the Federal Government's electronic and information technology. The law applies to all federal agencies when they develop, procure, maintain, or use electronic and information technology. Federal agencies must ensure that this technology is accessible to employees and members of the public with disabilities to the extent that doing so does not pose an "undue burden." The standards cover various means for disseminating information, including computers, software, and electronic office equipment in the federal sector. On July 13, 2000,

President Clinton signed into law a military appropriations bill that included an amendment to Section 508 of the Rehabilitation Act. Under the new amendment, the effective date of Section 508's enforcement provisions are delayed to allow more time for compliance with the Board's final standards. As originally written, the enforcement provisions of Section 508 would have taken effect August 7, 2000. This date was based on final standards being completed in February 2000, which would have allowed six months before enforcement provisions took effect. The amended language revises the effective date of the enforcement provisions to six months from publication of the Board's final standards, consistent with the law's intent. This action is responsive to industry concerns about sufficient time for compliance with the new standards. The final standards will be incorporated into the Federal Government's procurement regulations. The Access Board is also undertaking a project to develop technical assistance and training materials on the new standards. Under Section 508 (and the Assistive Technology Act of 1998), the Board is responsible for a technical assistance program and training of federal and state employees on the 508 standards and access to electronic and information technology. With the help of an outside contractor, the Board is developing training modules and technical assistance materials on the upcoming final standards and Section 508. The Board plans to have these materials developed so that they are available soon after the 508 standards are published.

NCD supports this critical work and encourages the Access Board, the General Services Administration, and the administration to publish the final Section 508 standards in a timely fashion.

3. General Services Administration (GSA)

GSA launched the Federal Information Technology Accessibility Initiative to help federal agencies provide access to electronic and information technology and to meet the requirements of Section 508. This program will coordinate the Federal Government's efforts to comply with the

law through outreach, training, and information sharing. GSA issued a memo on May 22 to all federal chief information officers requesting that each agency name an information technology (IT) access coordinator and team to ensure compliance with Section 508. GSA will work with designated IT access coordinators to provide assistance and support and is organizing seminars and workshops targeted to the coordinators, IT professionals, procurement officers, and webmasters. GSA highlighted access to agency Web sites as a priority in this effort and set a target date of July 26, 2000 (the 10th anniversary of ADA) for agencies to make their principal Web sites and Web pages accessible. None of the agencies' Web sites met this deadline. Although the Section 508 standards proposed by the Board are not yet finalized, GSA has indicated that the sections covering Web access will serve as interim guidance in making existing sites and pages accessible.

NCD recommends that GSA provide opportunity for and rely on direct consumer feedback throughout its implementation of Section 508, particularly as it relates to matters of accessibility. NCD also recommends that GSA ensure that validated accessibility tools be created, adopted, or adapted for Web site accessibility purposes as well as for other technology purposes immediately after the Access Board's publication of Section 508 standards. In addition, NCD urges Congress to take whatever steps are necessary to amend the Congressional Accountability Act so that the Government Printing Office (which maintains 30 federal agency Web sites) does not remain exempt from federal accessibility laws and regulations, including Section 508, as they pertain to Web sites.

4. Web-Based Education Commission

The commission is a congressionally established panel tasked to investigate the educational promise of the World Wide Web. The commission focuses on the development and use of Web-based content and learning strategies to improve achievement at the K–12 and postsecondary levels. Its mission is to recommend actions to help ensure that all learners have full and equal

access to the capabilities of the World Wide Web, and to ensure that online content and learning strategies are affordable and meet the highest standards of educational quality. The commission recommends to the President and Congress policies for helping education leaders at all levels incorporate Web-based learning strategies to improve education and achievement. The commission will conduct a thorough study of the critical pedagogical and policy issues affecting the development and use of Web-based content and learning strategies to improve achievement at the K-12 and post-secondary levels. The Commission will review the need for changes in applicable regulatory authority and quality assurance processes, including standards and accreditation. It will also review programs to support equality in both the availability of training and access to the Web that are required to promote individualized learning. During 2000, through a series of public hearings, the commission conducted an investigation of the key issues that surround the wide-scale use of the Internet for learning, including the necessity for ensuring that all learners have full and equal access to the capabilities of the Web. In December 2000, the commission issued a report of its findings from two years worth of hearings and e-testimony.

NCD acknowledges the work of the commission, especially its focus on the policy issue of "access and equity." NCD strongly encourages Congress to use the commission's report for the next few years as a roadmap to guide congressional activity in key areas such as distance learning, technology development and transfer, internet and Web-oriented research, and e-commerce, to name just a few issues.

5. Department of Justice

On April 18, 2000, the attorney general of the United States announced the release of a new Department of Justice report, *Information Technology and People with Disabilities: The Current State of Federal Accessibility*, detailing the extent to which all federal agency electronic and information technology is accessible to, and usable by, people with disabilities.

NCD commends DOJ and all participating federal agencies for providing the nation, for the first time, with a picture of the status of accessible electronic and information technology (EIT). NCD encourages DOJ and all federal agencies to work together to improve and enhance the depth and breadth of EIT accessibility for all American citizens in the coming years.

6. Federal Communications Commission (FCC) and the E-Rate

FCC's Schools and Libraries Division (SLD) and Universal Service Administrative Company continued to provide affordable access to telecommunications services for eligible schools and libraries in the United States. The program is funded at up to $2.25 billion annually. The level of discounts schools and libraries are eligible to receive depends on economic need and location (rural or urban); once approved, they apply their discounts to telecommunications services, internet access and internal connections, then pay the difference out of their own budgets. The Universal Service Fund for Schools and Libraries, popularly known as the "e-rate," provides all public and private schools and libraries with access to affordable telecommunications and advanced technologies through the e-rate, which is the discounted rate schools and libraries pay for telecommunications services, Internet access, and internal connections. Discounts are based on the number of students eligible for the National Free Lunch Program. Schools and libraries in low-income urban communities and rural areas qualify for the highest discounts.

Unfortunately, for the first three years of operation, e-rate discounts valued at about $6 billion have been awarded to schools and libraries without any explicit assurances that accessibility to the telecommunications services and programs funded with e-rate monies is provided for people with disabilities. NCD's recent meetings with FCC staff have resulted in the inclusion of a generic accessibility notice in hard-copy and electronic e-rate applications. Retroactive application of accessibility standards to schools and libraries funded the past three years is needed.

NCD recommends that the FCC revise its e-rate application form and Web site to include the specific requirement and assurance from schools and libraries that they will adhere to federal accessibility mandates. In addition, FCC and DOJ should ensure that recipients of federal funds under the e-rate program for the past three years comply with federal accessibility mandates.

International Issues

1. Priorities in the International and Foreign Policy Arena

In April 2000, NCD sponsored a two-day meeting of members of its Foreign Policy Team and International Watch (IW), a federal advisory committee convened to provide input and guidance to NCD on international disability rights issues. Interested observers also attended. The purpose of the meeting was to determine the top priority issues for NCD and its network of international disability policy experts over the next several years. The meeting began with two roundtable discussions in which federal agency officials provided brief overviews of their agencies' initiatives in the international arena and commented on work that remains to implement a policy of full inclusion. Following the roundtables, IW members identified five priorities for action to advance disability inclusion in foreign/ international policy:

- Strengthen U.S. State Department policies and improve practices related to inclusion of people with disabilities, particularly in overseas operations and foreign assistance programs.
- Urge Congress to pass an amendment to the Foreign Assistance Act similar to the Percy Amendment that legislated the inclusion of women in foreign assistance projects aimed at strengthening national economies. A parallel amendment for people with disabilities would make resources available to create opportunities for participation in local economies and the achievement of economic self-sufficiency.
- Apply and enforce existing international laws, conventions, and standards to promote the human rights of people with disabilities worldwide.

- Hold an international congress on developing an agenda for a convention on the human rights of people with disabilities.
- Urge U.S. government agencies and nongovernmental organizations to develop working partnerships aimed at articulating, advancing, and coordinating inclusion activities within and across public agencies and private organizations.

Cognizant of the fact that NCD may not be the appropriate leader for these initiatives, IW members requested that NCD promote the issues and help identify other organizations that can lead or partner in an effort to achieve these objectives.

To illustrate the collaborative efforts of U.S. agencies, representatives from the Social Security Administration and the Department of Education spoke about an international project co-sponsored by the two agencies to improve the lives of women with disabilities through leadership development and employment readiness. The international trainings, geared to young and emerging women leaders in the disability community, focused on advocacy and leadership skills.

2. Department of State

On March 16, 2000, the Department of State's Bureau of Democracy, Human Rights, and Labor sponsored a symposium on people with disabilities who are living in institutions worldwide and the routine human rights abuses they suffer. The executive director of Mental Disability Rights International presented documentation of long-standing patterns of human rights abuses in several countries. He asked the associate administrator for the bureau to take steps to ensure accurate and consistent documentation of violations against people with disabilities in the Department of State's annual report to Congress on human rights practices. The associate administrator responded with a memo sent to all U.S. missions in early September 2000, calling on them to expand their reporting practices to include human rights abuses in institutions for

people with disabilities. The associate administrator's office also funded the development of a training video geared to U.S. human rights investigators for distribution to U.S. missions worldwide.

The implementation of inclusive policies in the Department of State has advanced slowly, with problem areas in implementing Section 501 of the Rehabilitation Act. One example is the Department's internal policy requiring an applicant with a disability to provide a "letter of basic eligibility" from his or her state vocational rehabilitation agency or the Department of Veterans Affairs. If selected for a position, a person with a disability is required to submit a "letter of certification" stating that he or she can perform the duties of the position with or without reasonable accommodation. This policy is not in conformance with Section 501, which applies the same nondiscrimination standards in Title I of the Americans with Disabilities Act to federal employers.

NCD strongly recommends that the Department of State closely examine all its personnel policies in light of the legal standards of nondiscrimination in Title I of ADA. NCD urges the Department to take immediate action to modify its policies as necessary to eliminate all discriminatory barriers.

3. United States Agency for International Development

In February 2000, the United States Agency for International Development (USAID) released its second annual report on the implementation of the USAID disability policy first announced in 1998. The report looked at the policy recommendations from 1998 to assess to what extent they had been implemented in 1999. The following are some of the report's findings:

- There has been some increase (estimated at less than 50%) in the number of disability plans in place at U.S. missions overseas.
- Even fewer missions have established conversational contact with a single local disability advocacy group.
- The increase in mission activities that include people with disabilities has been slight.
- The inclusion of disability in agencywide training had not occurred when the report was released in February, though plans to develop a multipurpose diversity training module during FY 2000 had been initiated.

The report stated that overall efforts to promote USAID's disability policy "have been disjointed and minimally effective despite some areas of internal support." Finally, the report recommended

- establishing a lead organization for shepherding policy implementation;
- increasing program support for the lead agency to carry out inclusion activities;
- exploring potential funding mechanisms to promote the policy; and
- incorporating language to application guidelines for bureau funds that encourages programs that benefit and include people with disabilities.

NCD strongly encourages USAID to move forward with the recommendations from the second annual report, particularly as they relate to directing funds toward those programs that explicitly include and benefit people with disabilities.

4. United Nations

The United Nations (UN) held a special session of the General Assembly June 5–9, 2000, in New York City as a follow-up to the Fourth World Conference on Women held in Beijing in September 1995. The member governments in attendance reaffirmed their commitments to the Beijing Declaration and Platform for Action adopted at the Fourth World Conference to reduce

the gap in equality between men and women that results in higher infant mortality rates and higher levels of malnutrition. The members also adopted additional actions and initiatives for implementing both documents. Disability advocates criticized the action platform for the inadequate attention given to the added burden of disadvantage, discrimination, lack of power, and denial of the right to make decisions over their own lives experienced by women with disabilities as a result of their disabilities. Their message, however, was incorporated into the Beijing+5 final report, which states, "Girls and women of all ages with any form of disability are generally among the more vulnerable and marginalized of society. There is therefore need to take into account and to address their concerns in all policy making and programming. Special measures are needed at all levels to integrate them into the mainstream of development."

The special rapporteur of the UN Commission for Social Development presented his final report to the commission on monitoring the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities. He reports that even among the most advanced countries, the rules have not been fully implemented, but have been widely accepted as the main disability policy guidelines for governments and nongovernmental organizations (NGOs) alike. While most countries have not started using the rules, survey results show 85 percent of governments that provided information believe the rules have led to a rethinking of policies.

The special rapporteur noted that in the area of development cooperation, no serious effort was identified within the UN or in intergovernmental institutions to integrate disability measures into their mainstream activities for development cooperation. The same situation was found at international financial institutions such as the World Bank, regional development banks, and others. The special rapporteur pointed to the great risk that this lack of commitment will once again lead to disability measures being left out or marginalized in UN development programs.

The disappointingly slow advance of disability rights and quality of life for people with disabilities internationally has contributed to a groundswell of support for an international

convention on the human rights of people with disabilities. Groups around the globe are engaging in dialogue and strategizing to promote a UN convention. At the March 2000 World NGO Summit on Disability in Beijing, China, the main international disability NGOs concluded that to date, neither the international and regional instruments, nor the International Bill of Rights had a significant impact on improving the lives of people with disabilities. The NGO Summit Beijing Declaration called for an international convention with binding force to protect and promote the rights of people with disabilities. Such an instrument would reinforce the moral authority of the Standard Rules. Another major dialogue on the convention took place in August 2000 at the Rehabilitation International XIX World Congress in Rio de Janeiro.

NCD strongly urges the UN to continue the work of the special rapporteur to influence the development of awareness, positive response, and a sense of urgency in ending the discrimination against and low visibility of people with disabilities.

Conclusion

This year, the Federal Government and states must implement a number of new and effective strategies to ensure that the overwhelming majority of the next generation of people with disabilities participates in the prosperity of work. Public policy and legislation must no longer force anyone into mere survival on income maintenance programs.

This year we must work to restore civil rights as a national priority for America. This restoration must occur in deeds, not just in words.

This year we must provide a continuum of long-term care services to ensure that nursing home or other institutional care is not the "default" solution" Access and adequate support to live where they choose is fundamental to people with disabilities in exercising their civil, political, social, religious, and cultural rights in society.

This year we must ensure that the new world economy—an economy already defined by technology—is also defined as an economy with the ability to unlock the potential of people with disabilities. Worldwide accessible technology is imperative.

This document reflects the large and small steps that have been taken during the past 12 months to ensure that people with disabilities enjoy the full benefits of American citizenship and prosperity. Within these pages are the incremental events, program endeavors, legislative proposals, and policy actions that comprise a somewhat random agenda for civil and human rights and access to society for people with disabilities.

The new administration and Congress will need to create a comprehensive and farsighted set of opportunities to reinvigorate federal enforcement of disability, civil, and human rights laws so that more Americans with disabilities and their families can realize the dream of equal access to full participation in American society. The new administration must commit the necessary leadership and resources to enforce our civil and human rights laws to ensure that protections in law are protections in fact. NCD has laid out a roadmap for the new administration through its civil rights monitoring project reports.

Let the new administration and Congress mark a realignment of commitment from government, private sectors, and society to support the enormous energy of the grassroots movement for civil and human rights and access to society for individuals with disabilities.

PART II

Major Activities Summary—Fiscal Year 2000

The Federal Reports Elimination and Sunset Act of 1995 (S. 790), among other things, eliminated many unnecessary annual reports to the Federal Government, including NCD's annual report on its activities and accomplishments. That information is now combined with NCD's statutorily mandated *National Disability Policy: A Progress Report* to provide a more accurate picture of NCD's disability policy activities.

The National Council on Disability is a leader in the development and analysis of disability civil rights policy that affects 54 million Americans with disabilities and their families. With a budget authorization of $2,390,880, NCD conducted a number of activities in FY 2000. Those activities promoted policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability, from all cultural backgrounds. They also helped individuals with disabilities realize the promise of the Americans with Disabilities Act (ADA) by empowering them to achieve economic self-sufficiency, independent living, inclusion, and integration into all aspects of society.

In FY 2000, NCD reviewed and evaluated new and emerging policy issues that affect people with disabilities. NCD continued to identify the overall needs and concerns of people with disabilities by conducting hearings, forums, and conferences throughout the country and by responding to literally thousands of telephone, e-mail, and written inquiries on ADA and other disability civil rights issues.

NCD continued its Disability Civil Rights Monitoring Project with the release of three independent analyses of federal enforcement of disability civil rights laws.

This series grew out of NCD's 1996 national policy summit, attended by more than 300 disability community leaders from diverse backgrounds, who called on NCD to work with federal agencies to develop strategies for greater enforcement of existing disability civil rights laws. On March 18, 1999, NCD produced its first report, *Enforcing the Civil Rights of Air Travelers with Disabilities*. The second report, *Back to School on Civil Rights*, on the enforcement of the Individuals with Disabilities Education Act, was issued on January 25, 2000. The third report, *Promises to Keep: A Decade of Federal Enforcement of the Americans with Disabilities Act*, was released on June 27, 2000. The enforcement reports to follow in this series will be on the Fair Housing Amendments Act of 1988 and Section 504 of the Rehabilitation Act.

In FY 2000, NCD also released several other reports, including *Implementation of the National Voter Registration Act by State Vocational Rehabilitation Agencies*; *From Privileges to Rights: People with Psychiatric Disabilities Speak for Themselves*; *National Disability Policy: A Progress Report*; and *Federal Barriers to Assistive Technology*. NCD established a Youth Advisory Committee; convened NCD Think Tank 2000: Coalitions for Advancing the Civil and Human Rights of People with Disabilities from Diverse Cultures; held a civil rights retreat; celebrated the 10th anniversary of ADA; and conducted community briefings across the country.

Activities for FY 2000

NCD conducted multiple activities in FY 2000 that significantly increased consumer input on public policy issues affecting people with disabilities and provided information on NCD's daily operations. A summary of those activities follows:

NCD Releases Report on Voter Registration

October 1, 1999, Washington, DC

NCD released its report *Implementation of the National Voter Registration Act (NVRA) by State Vocational Rehabilitation Agencies*. This report, which is the first to monitor NVRA, found that implementation of this law by states is inconsistent and poorly coordinated.

NVRA was enacted 1993 to make it easier for all people to register to vote. Section 7 of NVRA specifies that each state will designate, as voter registration agencies, all offices in the state that provide state-funded programs primarily engaged in providing services to persons with disabilities. One of the largest agencies serving people with disabilities in a state is the vocational rehabilitation agency.

National Disability Employment Awareness Month

October 19, 1999, Washington, DC

The White House Office of Public Liaison, NCD, and the President's Committee on Employment of People with Disabilities co-hosted a commemoration of National Disability Employment Awareness Month by recognizing the musical and artistic talents of Americans with disabilities.

Air Carrier Access

November 16–17, 2000, Washington, DC

NCD participated in a symposium for airline personnel on meeting the needs of passengers with disabilities. An NCD representative addressed compliance and enforcement of the Air Carrier Access Act and discussed NCD's report *Enforcing the Civil Rights of Air Travelers with Disabilities: Recommendations for the Department of Transportation and the President.*

Presidential Task Force on Employment of Adults with Disabilities

December 8, 1999, Chicago, IL

NCD participated in a town hall meeting of the Presidential Task Force on Employment of Adults with Disabilities. The task force is chaired by the Secretary of Labor. NCD is a member of the task force.

Interregional Seminar and Symposium

December 13–17, 1999, Hong Kong, China

NCD was represented at the Interregional Seminar and Symposium on International Norms and Standards Relating to Disability, which was hosted by the Hong Kong Equal Opportunities Commission and the University of Hong Kong Faculty of Law, in cooperation with the United Nations. Fifty-four participants attended from 11 countries.

International Watch

December 15, 1999, Washington, DC
March 15, 2000, Washington, DC

NCD conducted a meeting of its International Watch advisory committee. The purpose of International Watch is to share information on international disability issues and to advise NCD's

Foreign Policy Team on developing policy proposals that advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

April 6–7, 2000, Washington, DC

NCD held an International Watch advisory committee meeting at the Washington Marriott Hotel in Washington, DC. On the first day of the meeting, representatives from 11 federal agencies shared information about their agencies' international disability policy implementation during three roundtable sessions. Each roundtable was followed by a question and answer session from 21 members of NCD's International Watch and Foreign Policy Team, as well as 14 official observers. Agency representatives brought to light significant new information about some of their agencies' activities. All agreed that a tremendous amount of work remains to be done to fully implement disability inclusion policy in each agency's operations, both domestic and overseas.

The second day focused on forging an action agenda based on the input and discussion from the first day. Four work groups were established to develop action plans relating to Department of State initiatives, interagency coordination and other agency actions, legislative priorities, and a United Nations convention.

NCD Releases Report on People Labeled with Psychiatric Disabilities

January 20, 2000, Orlando, FL

NCD released its report *From Privileges to Rights: People with Psychiatric Disabilities Speak for Themselves*, at the National Association of Protection and Advocacy Systems' Winter Conference 2000 in Orlando, Florida. NCD board member Rae Unzicker presented the report on behalf of NCD. The report is based on NCD's 1998 hearing in Albany, New York, where NCD heard testimony from mental health professionals, lawyers, advocates, and relatives of people with psychiatric disabilities and from people with psychiatric disabilities themselves. They

described in graphic detail how people with psychiatric disabilities have been beaten, shocked, isolated, incarcerated, raped, deprived of food and bathroom privileges, and physically and psychologically abused in institutions and in their communities. This testimony resulted in a number of recommendations for change in the way people with psychiatric disabilities are treated. The most important is the elimination of coercion. *From Privileges to Rights* calls on the President and Congress to address the many problems faced by people with psychiatric disabilities and to ensure that these people are fully and substantively involved in making policy changes that will enable them to claim their full citizenship rights.

NCD Releases IDEA Report

January 25, 2000, Washington, DC

Parents, students, and disability advocates braved a blizzard to participate in NCD's January 25 news conference highlighting the release of its report *Back to School on Civil Rights*. The report confirms what parents and children with disabilities have repeatedly told NCD: that noncompliance with the Individuals with Disabilities Education Act (IDEA) has persisted in some states over many years, placing enormous burdens on children and families. NCD also found that too many parents of children with disabilities continue to spend endless resources to overcome obstacles to their children's basic right to an appropriate education, often at the expense of their personal lives, their careers, and their families' financial security.

Back to School on Civil Rights is the second in NCD's "Unequal Protection Under Law" series of independent analyses of federal civil rights enforcement for Americans with disabilities. The first in the series was NCD's report of March 18, 1999, *Enforcing the Civil Rights of Air Travelers with Disabilities: Recommendations for the Department of Transportation and the President.*

President's Committee on Mental Retardation

February 22–23, 2000, New York, NY

NCD participated in the President's Committee on Mental Retardation Conference on Poverty and Disability: A Call to Action, addressing Native American issues and childhood and child development practices.

Community Outreach

February 28, 2000, Orlando, FL

NCD conducted a community briefing on critical issues for people with disabilities on February 28 in Orlando, Florida. During the briefing, NCD presented information on its "Unequal Protection Under Law" series of independent analyses of federal civil rights enforcement for Americans with disabilities., including *Back to School on Civil Rights; Lift Every Voice: Modernizing Disability Policies and Programs to Serve a Diverse Nation*; and *From Privileges to Rights: People Labeled with Psychiatric Disabilities Speak for Themselves*.

NCD Fellowship

March 1, 2000, Washington, DC

In 1999, NCD established the National Disability Fellowship Program in Washington, DC, to identify and develop new leaders with disabilities to enhance NCD's policy capacity. NCD announced the second one-year appointment, which will begin on January 8, 2001. The focus of the program is to provide experience, training, and contacts to qualified individuals with disabilities.

NCD Co-sponsors White House Initiative

May 1, 2000, Washington, DC

NCD co-sponsored the White House Initiative on Asian Americans and Pacific Islanders Heritage Month Celebration. On June 7, 1999, President Clinton signed Executive Order 13125, which seeks to improve the quality of life for Asian Americans and Pacific Islanders by increasing their participation in federal programs where they may be underserved. To implement the Executive Order, the President established an advisory commission and a federal interagency working group. NCD is a proud member of the working group.

Psychiatric Survivors Meet with the Vice President

May 2, 2000, Washington, DC

A national coalition representing people with psychiatric disabilities met in the White House with Lisa Brown, general counsel to Vice President Gore, and Trooper Sanders, senior policy advisor to Mrs. Gore, to convey the civil rights aspect of "mental health"—the necessity to eliminate the devastating discrimination suffered by people with psychiatric disabilities and psychiatric survivors. The group urged the vice president and Mrs. Gore to take a public stand against involuntary confinement, abuse, coercion, forced treatment, and discrimination of any kind. During the meeting, NCD presented an overview of its report *From Privileges to Rights: People Labeled with Psychiatric Disabilities Speak for Themselves*. Recommendations in this report emphasize the basic principle that people with psychiatric disabilities are, first and foremost, citizens who have the right to expect that they will be treated according to the principles of law that apply to all other citizens. All laws and policies that restrict the rights of people with psychiatric disabilities simply because of their disabilities are inharmonious with basic principles of law and justice, as well as with such landmark civil rights laws as ADA.

NCD Releases Disability Progress Report

May 15, 2000, Washington, DC

NCD released its report *National Disability Policy: A Progress Report,* which found that despite the enactment of laws and Federal Government regulations designed to enable people to engage more fully in our nation's economy, far too many people with disabilities continue to face daunting obstacles. While the national unemployment rate is the lowest it has been for over a quarter of a century, that rate remains above 70 percent for people with disabilities. In addition, a majority of the nation's six million students with disabilities are not receiving special education and related services in regular education environments.

Think Tank 2000

May 18–20, 2000, Arlington, VA

NCD hosted a civil rights strategy session—NCD Think Tank 2000: Coalitions for Advancing the Civil and Human Rights of People with Disabilities from Diverse Cultures—designed to develop a strategic plan to combat the myriad challenges faced by Americans with disabilities from culturally diverse backgrounds.

Speakers included acting Assistant Attorney General for Civil Rights Bill Lann Lee; Chair of the Congressional Black Caucus James E. Clyburn; Representative Major R. Owens; and Executive Director of the Leadership Conference on Civil Rights Wade Henderson. Participants included leaders from diverse cultures, a broad coalition of people representing grassroots disability rights and traditional civil and human rights groups, and members of Congress and administration officials.

Presidential Task Force on Employment of Adults with Disabilities

May 24, 2000, Hartford, CT

NCD participated in a town hall meeting of the Presidential Task Force on Employment of Adults with Disabilities. The purpose was to address expanding employment opportunities for people with psychiatric disabilities. NCD is a member of the task force, which is chaired by the secretary of Labor.

Community Briefing

May 24, 2000, San Juan, PR

NCD conducted a community briefing to gather input on findings and recommendations from reports in its Unequal Protection Under Law series.

NCD Releases Report on Technology

May 31, 2000, Washington, DC

In its report *Federal Policy Barriers to Assistive Technology,* NCD found that federal policies constitute a barrier to individuals with disabilities who wish to learn about, obtain, and use assistive technology (AT) devices and services, such as telecommunications equipment and services for the deaf and computer software for adults and students who are blind. These barriers translate into poor quality of life for people who cannot get the AT they need.

Zero Tolerance and School Discipline

June 15–16, 2000, Washington, DC

NCD participated in summit entitled Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies. An NCD representative discussed NCD's

report *Back to School on Civil Rights*. The event was co-sponsored by the Civil Rights Project at Harvard University, the Advancement Project, and the Rainbow/PUSH Coalition.

NCD Releases ADA Report

June 27, 2000, Washington, DC

NCD released its new report *Promises to Keep: A Decade of Federal Enforcement of the Americans with Disabilities Act* at a standing-room-only news conference in Washington, DC. NCD concluded that chronic underfunding and understaffing of responsible agencies, undue caution, and the absence of a coherent strategy have undermined federal enforcement of ADA in its first decade. The primary speakers were Marca Bristo, chairperson, NCD; Gina McDonald, member, NCD; Wade Henderson, executive director, Leadership Conference on Civil Rights; Andrew J. Imparato, president and chief executive officer, American Association of People with Disabilities; and Jennifer Jones, chairperson, Youth Leadership Council.

In a tremendous show of support, several disability stakeholders and national leaders also sat at the dais and helped answer questions from the media. They included Yoshiko Dart, for Justin Dart and Justice For All; Curt Decker, executive director, National Association of Protection and Advocacy Systems; Paul Marchand, co-chair, Education Task Force, Consortium for Citizens with Disabilities; Patty McGill Smith, executive director, National Parent Network on Disabilities; and Courtland Townes III, chair, Legislative Committee, National Council on Independent Living. Bob Kafka, national organizer for ADAPT, and Pat Wright, director of governmental affairs, Disability Rights Education and Defense Fund, were unable to participate because of pressing family matters.

NCD Civil Rights Retreat

June 27–29, 2000, Washington, DC

NCD convened a Civil Rights Retreat to collaborate on a national enforcement agenda for disability civil rights over the next 10 years. The participants represented a broad array of expertise in the areas of civil and human rights, disability advocacy, and the status of people with disabilities from diverse cultural backgrounds. This two-and-a-half-day retreat addressed issues of inclusion, empowerment, and access to equal opportunity. The goal of the retreat was to forge a disability civil rights agenda articulated in a consensus document that could then be taken to grassroots communities around the country for their feedback in late 2000.

ADA 10th Anniversary

July 25, 2000, Washington, DC

NCD celebrated the 10th anniversary of ADA at a special luncheon honoring the Leadership Conference on Civil Rights (LCCR) for the pivotal role it played in the passage of ADA. During the luncheon, LCCR was presented with NCD's newly established Justin Dart Freedom Award. LCCR executive director Wade Henderson accepted the award. Representative Major R. Owens (D-NY) was the keynote speaker, while Senator Tom Harkin (D-IA) and Representative James Clyburn (D-SC), chair of the Congressional Black Caucus made special congratulatory remarks.

Youth Advisory Committee

July 25, 2000, Washington, DC

NCD conducted a meeting of its newly established Youth Advisory Committee to provide input into NCD activities consistent with the values and goals of the Americans with Disabilities Act.

International Watch

August 15, 2000, Washington, DC

NCD conducted a meeting of its International Watch advisory committee. The purpose of International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team as it develops policy proposals that advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Community Briefings

After a a disability civil rights agenda was formulated into a consensus document at the Civil Rights Retreat, NCD took the document to grassroots communities around the country for their feedback.

August 14, 2000, New York, NY
August 16, 2000, Atlanta, GA
August 30, 2000, Houston, TX
September 6, 2000, Denver, CO
September 7, 2000, Anchorage, AK
September 8, 2000, Philadelphia, PA
September 13, 2000, Los Angeles, CA
September 15, 2000, Miami, FL
September 19, 2000, Boston, MA
September 21, 2000, Portland, OR
September 27, 2000, Rapid City, SD
September 28, 2000, Chicago, IL
September 29, 2000, Kansas City, MO

Congressional Testimony

In FY 2000, NCD provided formal testimony to Congress on four occasions:

- February 17, 2000, testimony submitted for the record of the U.S. House of Representatives:

  NCD submitted written testimony to the House Committee on the Judiciary, Subcommittee on the Constitution, addressing the applicability of the Americans with Disabilities Act to private Internet sites.

- March 25, 2000, testimony submitted for the record of the U.S. Senate:

  NCD submitted written testimony to the Sena.e Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies regarding its FY 2001 budget request.

- March 30, 2000, before the U.S. House of Representatives:

  NCD testified before the House Committee on Appropriations, Subcommittee on Labor, Health and Human Services, and Education, regarding its FY 2001 budget request.

- September 14, 2000, testimony submitted for the record of the U.S. Senate:

  NCD submitted e-testimony to the Web-based Education Commission, addressing equal access to education for individuals with disabilities of all ages, including matters that prevent students' access to information technology that includes the Internet and World Wide Web.

Information Dissemination

Information dissemination reached a record high for NCD, as it responded to thousands of telephone calls, e-mail messages, and letters from concerned people and organizations about

disability issues. In addition, NCD published its monthly newsletter, *NCD Bulletin*, which reaches more than 12,000 people and organizations. All NCD publications are available in alternative formats, such as braille, large print, and audiocassette. This information is also available at NCD's award-winning Web site (www.ncd.gov), which receives more than one million hits per year.

Also, on August 11, 2000, the President signed Executive Order 13166, which improves access to services for persons with limited English proficiency. This Executive Order was a result of a recommendation in *Lift Every Voice*. Information on NCD's Web site is also available in Spanish, Chinese, Vietnamese, Tagalog, and Korean. The NCD Web site also offers a translation function that removes language barriers across the World Wide Web. It translates to and from English, French, German, Italian, Portugese, and Russian.

NCD Quarterly Meetings

As required by Section 400(3)(c) of the Rehabilitation Act of 1973, as amended, NCD met on four occasions during FY 2000:

November 15–16, 1999; Baltimore, MD

February 28–March 1, 2000; Orlando, FL

May 22–24, 2000; San Juan, PR

August 7–9, 2000; Washington, DC

APPENDIX

Mission of the National Council on Disability

Overview and Purpose

The National Council on Disability (NCD) is an independent federal agency with 15 members appointed by the President of the United States and confirmed by the U.S. Senate. The overall purpose of NCD is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or significance of the disability; and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

Specific Duties

The current statutory mandate of NCD includes the following:

- Reviewing and evaluating, on a continuing basis, policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by federal departments and agencies, including programs established or assisted under the Rehabilitation Act of 1973, as amended, or under the Developmental Disabilities Assistance and Bill of Rights Act; as well as all statutes and regulations pertaining to federal programs that assist such individuals with disabilities, in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities.
- Reviewing and evaluating, on a continuing basis, new and emerging disability policy issues affecting individuals with disabilities at the federal, state, and local levels and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that act as disincentives for individuals to seek and retain employment.

- Making recommendations to the President, Congress, the secretary of Education, the director of the National Institute on Disability and Rehabilitation Research, and other officials of federal agencies about ways to better promote equal opportunity, economic self-sufficiency, independent living, and inclusion and integration into all aspects of society for Americans with disabilities.
- Providing Congress, on a continuing basis, with advice, recommendations, legislative proposals, and any additional information that NCD or Congress deems appropriate.
- Gathering information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
- Advising the President, Congress, the commissioner of the Rehabilitation Services Administration, the assistant secretary for Special Education and Rehabilitative Services within the Department of Education, and the director of the National Institute on Disability and Rehabilitation and Research on the development of the programs to be carried out under the Rehabilitation Act of 1973, as amended.
- Providing advice to the commissioner of the Rehabilitation Services Administration with respect to the policies and conduct of the administration.
- Making recommendations to the director of the National Institute on Disability and Rehabilitation Research on ways to improve research, service, administration, and the collection, dissemination, and implementation of research findings affecting persons with disabilities.
- Providing advice regarding priorities for the activities of the Interagency Disability Coordinating Council and reviewing the recommendations of this council for legislative and administrative changes to ensure that such recommendations are consistent with NCD's purpose of promoting the full integration, independence, and productivity of individuals with disabilities.
- Preparing and submitting to the president and Congress an annual report titled *National Disability Policy: A Progress Report.*

International

In 1995, NCD was designated by the Department of State to be the U.S. government's official contact point for disability issues. Specifically, NCD interacts with the special rapporteur of the United Nations Commission for Social Development on disability matters.

Consumers Served and Current Activities

While many government agencies deal with issues and programs affecting people with disabilities, NCD is the only federal agency charged with addressing, analyzing, and making recommendations on issues of public policy that affect people with disabilities regardless of age, disability type, perceived employment potential, economic need, specific functional ability, veteran status, or other individual circumstance. NCD recognizes its unique opportunity to facilitate independent living, community integration, and employment opportunities for people with disabilities by ensuring an informed and coordinated approach to addressing the concerns of people with disabilities and eliminating barriers to their active participation in community and family life.

NCD plays a major role in developing disability policy in America. In fact, it was NCD that originally proposed what eventually became the Americans with Disabilities Act. NCD's present list of key issues includes improving personal assistance services, promoting health care reform, including students with disabilities in high-quality programs in typical neighborhood schools, promoting equal employment and community housing opportunities, monitoring the implementation of ADA, improving assistive technology, and ensuring that those persons with disabilities who are members of diverse cultures fully participate in society.

Statutory History

NCD was initially established in 1978 as an advisory board within the Department of Education (Public Law 95-602). The Rehabilitation Act Amendments of 1984 (Public Law 98-221) transformed NCD into an independent agency.

U.S. Department of Education
Office of Educational Research and Improvement (OERI)
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